

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

**FILED**

FEB 11 2008

Criminal Action  
2:05-cr-00440-RBS-1

v.

ALTON COLES, et al.,

MICHAEL J. BRESNICK  
By MA Det

Philadelphia, PA  
January 16, 2008

Defendants.

TRANSCRIPT OF OPENING STATEMENTS  
BEFORE THE HONORABLE R. BARCLAY SURREICK  
UNITED STATES DISTRICT COURT JUDGE

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Proceedings recorded by electronic sound recording; transcript  
produced by transcription service.



I N D E X

OPENING STATEMENTS

Mr. Bresnick	3
Mr. Warren	32
Mr. McMahon	60
Mr. Thompson	77
Mr. Harmlin	94
Mr. Smith	102
Mr. Hetznecker	106

1 (Beginning of Requested Portion at 1:39:06)

2 THE COURT: Okay. Ladies and gentlemen, as I  
3 indicated to you before we broke for lunch, the next order of  
4 business are the opening statements of counsel. And, Mr.  
5 Bresnick, are you ready for the Government?

6 MR. BRESNICK: I am, Your Honor.

7 THE COURT: All right.

8 MR. BRESNICK: May I proceed?

9 THE COURT: You may open.

10 MR. BRESNICK: Thank you. It was 3:00 in the morning  
11 on August 10, 2005. With a court authorized wiretap in hand,  
12 federal agents were listening in on two cell phones belonging  
13 to this man, this defendant, Alton Coles, who also went by the  
14 name of Ace Capone.

15 You see, by that time, by that early morning hour,  
16 agents had already identified Coles as being the leader of a  
17 large-scale multi-state drug trafficking organization. And in  
18 that early morning hour, agents heard Cole have a series of  
19 conversations with his girlfriend, with his drug trafficking  
20 co-conspirator, with his co-defendant in this case, Monique  
21 Pullins, sitting right here.

22 And what the agents heard was Coles repeatedly and  
23 urgently telling Pullins to get rid of the gun that he left in  
24 her apartment, and get rid of it in a hurry. Put it in a bag  
25 and throw it down the trash chute.

Bresnick - Opening

Page 5

1           They heard him say, put it in a bag and throw it down  
2           the trash chute, over and over again. Now with the benefit of  
3           the court authorized wiretap, you're going to hear these  
4           conversations.

5           You're going to hear Alton Coles talking to Monique  
6           Pullins. You're going to hear Coles telling Pullins to get rid  
7           of his gun.

8           Now, in fact, what you're going to hear is Coles, in  
9           an effort to be secret, to hide what it was that he was talking  
10          about, didn't even call it a gun. He referred to it as, the  
11          black thing. Take the black thing that I left there. Put the  
12          black thing in a bag. Throw the black thing down the trash  
13          chute.

14          You'll hear Pullins ask him, you don't think it's  
15          going to go off? And you'll hear Coles respond, it's not going  
16          to go off, just make sure it's in the bag.

17          Now the agents also heard Coles telling Pullins to  
18          make sure that she went to the trash chute in the morning to  
19          recover the black thing. Well ladies and gentlemen, that  
20          opportunity never came. Because just three hours later, at  
21          6:00 in the morning, approximately 250 local and federal law  
22          enforcement officers spanned out across Philadelphia into the  
23          outer counties and crossing lines into New Jersey, to execute  
24          court authorized searches of 23 different properties.

25          Twenty-three different properties and 11 different



Bresnick - Opening

Page 6

1 automobiles owned and controlled by these six defendants. By  
2 these six defendants and their co-conspirators and associates.  
3 And at one location after another, agents found quantities of  
4 cocaine and crack cocaine, they found guns and tools and  
5 devices used to cook, package and sell cocaine and crack  
6 cocaine.

7 Well, ladies and gentlemen, let's start with what the  
8 agents found at the home of Monique Pullins. At 1416 Clearview  
9 Street in North Philadelphia. Well there they found a money  
10 counting machine. They found a digital scale used to weigh and  
11 measure cocaine for packaging and sale. They found tally  
12 sheets, which you'll hear are simply small sheets of paper used  
13 to describe payments owed to and received by Alton Coles for  
14 drug sales.

15 In fact, you're going to hear even more conversations  
16 between Alton Coles and Monique Pullins about tally sheets.  
17 And from the basement of the building, from the basement of  
18 Monique Pullins' building, from the trash dumpster, the  
19 dumpster that's connected to the trash chute, agents found a  
20 Glock 9 millimeter semi-automatic handgun loaded with 16 live  
21 rounds of ammunition.

22 And yes, ladies and gentlemen, it was wrapped tightly  
23 in a towel and it was black. Now that's just one location the  
24 agents searched that day. Let me tell you about a few other  
25 properties that they searched on August 10, 2005.

Bresnick - Opening

Page 7

1 Well, at another location, 339 East Essex Avenue, the  
2 location that the testimony, surveillance by law enforcement  
3 and the wiretap will prove was controlled by Alton Coles, as  
4 well as this man right here, Tim Baukman, Coles' top  
5 lieutenant, his partner in crime. Timothy Baukman, also known  
6 as Tim Gotti.

7 Ace Capone, Tim Gotti. At the apartment that they  
8 controlled, 339 East Essex Avenue, agents found a treasure  
9 trove of evidence. In fact, what they found at that location  
10 was an arsenal. Because there, they found not one, not two or  
11 three, ten, a total of ten firearms. Which included 2 rifles,  
12 one shotgun and 7 semi-automatic handguns. One that had an  
13 extended clip that was loaded with 32 live rounds of  
14 ammunition. Another that had the serial number obliterated,  
15 scratched right out of the middle, so it couldn't be traced  
16 back to anybody.

17 The agents also found, in addition to those 10  
18 firearms and the ammunition found in them, another 384 loose  
19 rounds of assorted ammunition. But that's not all. Because in  
20 addition to that, those guns, in addition to that ammunition,  
21 agents also found a hydraulic press machine. You'll see this  
22 hydraulic press machine. It's about this big, maybe this wide  
23 and it had 12 tons worth of pressure. Hydraulic machine, press  
24 machine with 12 tons worth of pressure, that Coles and Baukman  
25 and their fellow gang members would use to form cocaine power

Bresnick - Opening

Page 8

1 into kilogram quantities of cocaine.

2 Now a kilogram quantity of cocaine you'll hear is  
3 frequently referred to as a brick of cocaine. And that's  
4 because, when the cocaine powder is put into the hydraulic  
5 press machine, and as it's compressed into the general shape  
6 and size of a brick.

7 So you'll frequently hear the kilogram quantity of  
8 cocaine as referred to as a brick. And they found that  
9 hydraulic press machine in that apartment.

10 Well what else did they find? They found another  
11 approximately half a kilogram of cocaine, 7 grams of crack  
12 cocaine. They found even more tally sheets at that property.

13 Again, tally sheets are pieces of paper used to  
14 describe money owed to and received by Alton Coles, Tim  
15 Baukman, and others, from the sale of drugs.

16 They also found drug trafficking paraphernalia. Drug  
17 trafficking paraphernalia, such as dust masks. And you'll see  
18 these dust masks. Dust masks that Coles and Baukman and others  
19 would wear to prevent them from inhaling the drug when  
20 handling. They also had rubber gloves in the apartment that  
21 Coles and Baukman would wear to prevent them from having the  
22 cocaine oil seep into their skin and get into their  
23 bloodstream, again, when handling the cocaine.

24 And from the trash in that apartment. In the trash  
25 at 339 East Essex Avenue, agents found 44 used kilo wrappers.



Bresnick - Opening

Page 9

1 Now a kilo wrapper is simply the wrapping and the packaging  
2 from a kilogram quantity of cocaine. You'll see the wrappers.  
3 You'll see the cellophane and the duct tape used to wrap the  
4 kilos of cocaine. And you'll see that these wrappers have  
5 cocaine residue on them. Clearly indicating that they had been  
6 used to wrap kilogram quantities of cocaine.

7 Now one kilogram of cocaine, you'll hear, has an  
8 approximate wholesale value of about \$20,000. Forty-four  
9 kilograms of cocaine, ladies and gentlemen, is worth more than  
10 \$800,000.

11 Now an interesting thing about this property, you'll  
12 hear that the rent for it was paid for on a monthly basis by  
13 Tim Baukman, sitting right here. Only Baukman didn't pay for  
14 it in his own name.

15 He didn't pay for it from his own bank account.  
16 Instead, he paid for it from a bank account that he opened up  
17 in the name of his nine year old son, Tauheed Baukman. And  
18 you'll see these checks. You'll see what I'm talking about  
19 during the trial.

20 And Baukman had did this in an effort to conceal his  
21 identity, so nobody would be able to tie him to the property.  
22 Well Tauheed Baukman is renting the apartment, not Tim Baukman,  
23 that's what he was thinking. That's what was going through his  
24 mind. It was an effort to conceal his ownership and interest  
25 in the property.

Bresnick - Opening

Page 10

1           The property that had the ten firearms, the 44 kilo  
2           wrappers, the drug trafficking paraphernalia and the  
3           ammunition.

4           Now this is going to be a common theme during the  
5           trial, ladies and gentlemen. Both Alton Coles and Tim Baukman  
6           would frequently and repeatedly put assets in their minor  
7           children's names.

8           In Baukman's case, it was his 9-year-old son Tauheed.  
9           In Coles' case, it was his six-year-old son Naseem.  
10          For example, you'll hear -- just one example of many, you'll  
11          hear that in 2004 Alton Coles wanted to buy a car, a Ford  
12          Excursion. He didn't put it in his own name. Instead, he had  
13          the car titled in the name of his 6-year-old son, Naseem Coles.

14          Now his 6-year-old son, Naseem Coles, needless to  
15          say, was not driving. This car was Alton Coles'. In addition  
16          to putting assets and property in their children's names, they  
17          also had their girlfriends do it for him -- or for them. Both  
18          Coles and Baukman would have their girlfriends put property and  
19          assets in loans, in cars, in their name. Again, to keep Coles'  
20          name off those assets. To keep Baukman's name off those  
21          assets.

22          And we'll talk more about that during the course of  
23          the trial. What else did the agents search and what else did  
24          they find on August 10, 2005?

25          Well at the home of James Morris, the man sitting

Bresnick - Opening

Page 11

1 there in the beige jacket in the corner. James Morris, along  
2 with Thais Thompson, sitting right here at the end, at 5 North  
3 Burden Hill Road, New Jersey, in Quinton, New Jersey. Agents  
4 found in the bedroom upstairs, in Thais Thompson's purse in the  
5 bedroom upstairs, a loaded firearm. They found a Smith &  
6 Wesson 9 millimeter semi-automatic handgun. Ladies and  
7 gentlemen, that gun was loaded with six live rounds of  
8 ammunition in the magazine, and one in the chamber.

9 What's one in the chamber mean? That means, that gun  
10 was ready to fire. That bullet was there, ready to fire. And  
11 all she had to do was pull the trigger.

12 Now you're going to hear that Thompson had a permit  
13 for that gun. It's true, she had a permit for the gun. But  
14 you're also going to hear, just because someone has a permit  
15 for a gun, it doesn't mean they can use the gun for any purpose  
16 they want.

17 It doesn't mean they can use the gun for an illegal  
18 purpose. For example, protecting a stash of drugs, or  
19 protecting all the money made in selling drugs, or protecting  
20 the money you're going to be using in buying drugs.

21 Now keeping that in mind, you're going to hear that,  
22 in addition to the gun in Thomson's purse, the loaded gun in  
23 Thompson's purse upstairs, agents also found in the house  
24 approximately \$560,000. Five hundred and sixty thousand  
25 dollars, strewn about the house in bundles here and there and



Bresnick - Opening

Page 12

1 everywhere . All over the house. Including, hidden up in the  
2 attic in between the rafters, on top of the insulation.

3 They also found more kilo wrappers. They found a  
4 money counting machine. They found a digital scale. Again,  
5 used to measure cocaine for packaging and sale.

6 And from the car out front, the car in the driveway  
7 of the residence, the car -- the Chevy Suburban, that the  
8 evidence and the testimony will prove was used by James Morris,  
9 agents found another half a kilogram of cocaine hidden inside  
10 the wheel well of the car.

11 And they found another \$2,500 in drug proceeds in the  
12 car. What else? At the home of Tim Baukman, 2967 School House  
13 Lane, agents found \$25,000 in cash. Agents found thousands of  
14 dollars worth of other valuables and luxury items.

15 In addition to that cash and luxury items, agents  
16 also found the following firearms and ammunition. A fully  
17 automatic machine gun loaded with 29 live rounds of ammunition.

18 Fully automatic machine gun. Let me explain what  
19 fully automatic means to you, ladies and gentlemen. That means  
20 you press the trigger once, and it sprays a firestorm of  
21 bullets.

22 That fully automatic machine gun was in Tim Baukman's  
23 home, along with a semi-automatic handgun loaded with 30 live  
24 rounds of ammunition. As well as a 38 caliber revolver loaded  
25 with 5 live rounds of ammunition.

Bresnick - Opening

Page 13

1 Now at the home of Alton Coles, the home at 117  
2 Dillons Lane in Mullica Hill, New Jersey, the home he just  
3 moved into approximately a week before these searches on August  
4 10, 2005. A home worth approximately a half a million dollars.  
5 The home that he was living in with this defendant, Asya  
6 Richardson, sitting right here, with the blue lapel.

7 In this house, agents found a pistol magazine, a gun  
8 barrel cleaning device, more tally sheets. Again, used to  
9 describe payments owed and received for drug sales. And they  
10 found a gun box that corresponds with a gun that Coles was  
11 arrested with approximately a year earlier.

12 And they found a hundred and fifty four loose rounds  
13 of assorted ammunition. Plus, agents found substantially more  
14 drugs, more guns and more cash at the homes and in the cars of  
15 these gang members, associates and co-conspirators. Including  
16 \$114,000 in another property that Coles controlled, and that  
17 was lived in by another one of his girlfriends, Kristina  
18 Latney. And you'll hear about that during the trial.

19 Ladies and gentlemen, my name is Michael Bresnick, as  
20 you heard earlier. I'm an Assistant U.S. Attorney. With me at  
21 counsel table is Richard Lloret, also from the U.S. Attorney's  
22 Office. Special Agent John Bowman from the Bureau of Alcohol,  
23 Tobacco, Firearms & Explosives. Back here we have Special  
24 Agent Anthony Tropea from the Bureau of Alcohol, Tobacco,  
25 Firearms & Explosives. Charlie Humphrey from ATF as well.

Bresnick - Opening

Page 14

1 Charlene Horay, Special Agent Horay from ATF. As well as  
2 Special Agent Raymond Armstrong from the Internal Revenue  
3 Service.

4 Together, we represent the Government in this  
5 criminal trial against these six defendants. Together, we'll  
6 prove to you that Alton Coles and Tim Baukman ran a large-scale  
7 multi-state drug trafficking operation that started in  
8 Southwest Philadelphia in 1998, or earlier, and quickly spread  
9 through the years. Throughout Philadelphia into the outer  
10 counties and across state lines into New Jersey.

11 To Maryland, to Texas, and even Mexico. You'll hear  
12 about that, ladies and gentlemen. And we'll prove to you that  
13 Coles and Baukman, along with Thompson, Pullins and Morris, and  
14 many others, used guns, and lots of them, to protect their  
15 drugs, their turf, and all of the money they made selling their  
16 drugs.

17 Now I'd like to pull up now, if I could, Special  
18 Agent Horay, an organizational chart. It is awfully small  
19 print, and I'm not sure exactly how well any of you can see  
20 this. But this is a general organizational chart of what we  
21 expect the testimony and the evidence will prove during the  
22 course of this trial in this case.

23 Now you see, there are a lot of names there are a lot  
24 of faces on this chart. And the reason for that is very  
25 simple. There were a lot of people involved in this



Bresnick - Opening

Page 15

1 conspiracy. There's a long conspiracy, lasting from 1998 to  
2 2005. Got a lot of people involved. Everybody had a distinct  
3 role in this conspiracy.

4 What I'd like to do now, and you're going to hear  
5 about all these people. But what I'd like to do now, is just  
6 focus on the people at the top. The people, the defendants who  
7 are on trial in this courtroom here today.

8 Thais Thompson, James Morris, Alton Coles, Timothy  
9 Baukman, Monique Pullins and Asya Richardson. Those are the  
10 six on trial here today. And just to be clear, let me do this  
11 -- defendant Thais Thompson, right here; Asya Richardson, who  
12 was living with Alton Coles; Monique Pullins; James Morris, in  
13 the corner, Morris was living with Thais Thompson; Tim Baukman,  
14 the man who had the machine gun, and Alton Coles.

15 Now at the head of this organization, at the very top  
16 you've got Alton Coles. He's the one in charge of this  
17 organization, he's the one in charge of the business.

18 I use the word business, ladies and gentlemen,  
19 because it was a business. It was an illegal business, it was  
20 a criminal business, sure, but it was still a business. They  
21 had storage centers, where they would maintain storage  
22 facilities for their product, which was drugs, cocaine and  
23 crack cocaine.

24 Storage centers where they'd store their drugs for  
25 subsequent sales. They had a distribution network, people who

Bresnick - Opening

Page 16

1 were responsible for getting their product out on the streets,  
2 selling their drugs on the streets. They even had accounting  
3 ledgers and books of the business.

4 That's what the tally sheets were. An accounting --  
5 it might be not very sophisticated, but that's what the tally  
6 sheets were, is an accounting of the sales of the drugs of the  
7 business. And this business, ladies and gentlemen, had a CEO,  
8 it had a chief executive. And that chief executive was Alton  
9 Coles. He was the man at the top.

10 It was his organization, it was his business. He was  
11 the one ultimately responsible. He was the one making  
12 decisions and ordering and instructing people around.

13 And you're going to hear plenty about that. Now as  
14 with any business, it needed a source of supply. In this case,  
15 one source of supply for Alton Coles came from James Morris,  
16 again, sitting right there in the corner. James Morris was  
17 living in the house with Thais Thompson at 5 North Burden Hill  
18 Road, Quinton, New Jersey. The house where they found the kilo  
19 wrappers, the gun, the loaded gun in Thompson's purse, the  
20 \$560,000 in cash all over the house.

21 James Morris was one source of the cocaine, one  
22 source of drugs for Alton Coles. And you'll hear Morris got  
23 his drugs from Mexico, and you're going to hear plenty about  
24 that.

25 Now one individual who was responsible for

Bresnick - Opening

Page 17

1 maintaining a storage facility was Monique Pullins. Pullins,  
2 you'll remember, is the individual that Coles was telling to  
3 get rid of his gun, get rid of my -- I'm sorry, get rid of the  
4 black thing. Get rid of the black thing. That's Monique  
5 Pullins.

6 You'll hear that she maintained large amounts of  
7 drugs in her apartment, in her house on Clearview Street, and  
8 she distributed it at Coles' direction, at Coles' insistence.

9 Now as I said, both Coles and Baukman would use their  
10 minor children. They'd put property and assets in their minor  
11 kids' names. Well they're not on this chart, ladies and  
12 gentlemen, but their girlfriends are. Their girlfriends, who  
13 would do the same for Coles and Baukman, who would put cars in  
14 their name for Coles and Baukman. Who would put property in  
15 their names for Coles and Baukman. Who would obtain loans in  
16 their name for Coles and Baukman. All the while, keeping Coles  
17 and Baukman away from the paperwork, away from anybody who  
18 might be looking into what their assets truly were.

19 And in this case, it is Asya Richardson, the  
20 defendant Asya Richardson, the individual, the defendant who  
21 was living with Alton Coles. In Tim Baukman's case, it was his  
22 girlfriend, Tiffany Dixon. She's not on trial here today. But  
23 Asya Richardson is.

24 Now the indictment charges, and you heard the Judge  
25 give you a description of what the charges are in this case,



Bresnick - Opening

Page 18

1 and we're going to talk to you more about that at the end of  
2 the case. I saw a number of you just taking notes furiously,  
3 trying to keep things -- keep things straight.

4 We're going to be addressing this again to you when  
5 we come back to you at the end of the case. But generally, the  
6 indictment charges that this conspiracy, these group of  
7 conspirators, the Coles Cocaine Gang, agreed to sell 50 grams  
8 of crack cocaine, or 5 kilograms of cocaine powder, from 1998  
9 to 2005.

10 Again, 50 grams of crack cocaine, or 5 kilograms of  
11 cocaine powder during that 7 year period. And, ladies and  
12 gentlemen, that's an enormous amount of drugs. It's an  
13 enormous amount of drugs.

14 But to this conspiracy, to this conspiracy it's just  
15 a drop in the bucket. It was a drop in the bucket. Because  
16 you'll hear that this conspiracy could move 50 grams of crack  
17 cocaine in a single deal, in a single day.

18 They could sell 5 kilograms of cocaine powder in  
19 about a week. Let alone 7 years. In fact, what the evidence  
20 will be, what the testimony will be, is that Coles and Baukman,  
21 with the help of their fellow gang members, sold, not 5  
22 kilograms of cocaine powder, not 5 kilograms of cocaine powder,  
23 but more than a thousand kilograms of cocaine powder. That's  
24 more than 2,000 pounds of cocaine powder.

25 That's more than one ton of cocaine that Coles and

Bresnick - Opening

Page 19

1       Baukman and others put on the streets.

2               And you're going to hear that they sold not just 50  
3       grams of crack cocaine, again, not 50 grams, but more than 600  
4       kilograms of crack cocaine. Sold on the street by Alton Coles,  
5       Tim Baukman and others.

6               And you'll hear that the wholesale value of the drugs  
7       that they sold conservatively estimated at 25 million dollars.  
8       Now how are we going to prove this to you, ladies and  
9       gentlemen? How are we going to prove this more than a thousand  
10      grams -- a thousand kilograms of cocaine, more than 600  
11      kilograms of crack cocaine?

12              Well, you're going to hear from the law enforcement  
13      officers, you're going to hear from the ATF agents who were  
14      investigating this case during 2004 leading up to the federal  
15      searches, as I've described, on August 10, 2005.

16              And you're going to see what was recovered on August  
17      10, 2005. Not just from the homes of these defendants, but of  
18      many others, their co-conspirators' home.

19              Now you're not going to see a thousand kilograms of  
20      cocaine on this witness stand, ladies and gentlemen. The  
21      agents did recover a thousand kilograms of cocaine on August  
22      10, 2005. But what that date was, August 10, 2005 was, it was  
23      just a snapshot in time, it was just one moment, a single  
24      morning in the life of a 7 year long conspiracy.

25              And the best way I can describe it is this, you're

Bresnick - Opening

Page 20

1 all familiar with McDonald's restaurants, I'm sure. You've got  
2 the golden arches, and you've got the sign out front, I think  
3 it says over a billion sold, or billions and billions sold,  
4 something like that.

5 It doesn't mean if you were to walk into any  
6 individual McDonald's store at any given day you're going to  
7 see a billion hamburger buns, or you're going to see a billion  
8 hamburger patties. No, you're going to see what that business  
9 is doing on that particular day. It's a snapshot in time,  
10 really, of what kind of business that store is doing on that  
11 day.

12 Now if you want a better idea of how the business is  
13 doing, what kind of sales they're involved in over a 7 year  
14 long period, well, what would you do?

15 Maybe talk to the cook, the person who's working in  
16 back? Maybe you talk to the person up front who's working the  
17 cash register, find out, you know, how many orders of how many  
18 burgers you get a day? You can talk to the manager. You  
19 might even look at the accounting ledgers, the books and  
20 records of the business.

21 Well that's what we're going to do for you in this  
22 case. Because, in addition to hearing from law enforcement, in  
23 addition to seeing what was recovered on a single summer  
24 morning in 2005, you're going to hear from people who were part  
25 of this organization.



Bresnick - Opening

Page 21

1           You're going to hear from the people who were part of  
2           this business. You're going to hear from people who knew Alton  
3           Coles, who lived with him, who worked side-by-side with him to  
4           put his drugs out on the street.

5           Now you might not like these people, they were drug  
6           dealers, after all. They were dealing drugs for Coles. So you  
7           might not like them. But you will be able to believe them.  
8           And you'll be able to believe them, because everything they're  
9           going to testify about is going to be corroborated by  
10          additional evidence.

11          You're going to see the accounting records of this  
12          business. You'll see the tally sheets. You're going to see  
13          the used kilogram wrappers found at the homes, 44 such kilo  
14          wrappers, used kilo wrappers with cocaine residue on them,  
15          clearly proving they'd been used at the property at 339 East  
16          Essex Avenue.

17          And you're going to see the money, the massive  
18          amounts of money that this business was dealing in. \$560,000  
19          at the home of James Morris. Another \$114,000 in a safe in  
20          another property that Coles controlled. Twenty-five thousand  
21          more at the home of Tim Baukman, along with a machine gun.

22          But that's not all, ladies and gentlemen, that's not  
23          the best way the Government is going to corroborate those  
24          witnesses for you. Because the most compelling evidence in  
25          this case comes, not from any of those sources, the most

Bresnick - Opening

Page 22

1 compelling evidence in this case comes from Alton Coles,  
2 himself.

3 Because with the benefit of the Court authorized  
4 wiretap, you're going to hear Coles' conversations from the  
5 summer of 2005. You're going to hear Coles talking to his --  
6 his co-conspirators. You're going to hear him ordering the  
7 delivery of drugs, where, when, to whom and how much. You're  
8 going to hear Coles talking about how much money's owed from  
9 selling drugs.

10 And you're going to hear Coles talking about  
11 instructing people to go out and get the money that he's owed  
12 from selling drugs. You're going to hear all of this and more.

13 For example, May 19, 2005, is the very first day, the  
14 very first day that agents were entitled to go up on that wire.  
15 The judge had authorized the order -- had given the order  
16 authorizing the wiretap and the agents flipped the switch and  
17 they went up on that wire on May 19, 2005.

18 On that first day, agents heard a series of  
19 conversations between Alton Coles and one of his top  
20 distributors of cocaine, Jamar Campbell. Campbell had just  
21 been arrested three days earlier, May 16, 2005. He'd just been  
22 arrested by the Delaware County Detectives. And at the time of  
23 his arrest, he had in his car a 40 caliber Glock semi-automatic  
24 pistol. And he had 124 grams of cocaine in his car. That's  
25 Jamar Campbell.

Bresnick - Opening

Page 23

1 Three days after that arrest, Coles is talking to  
2 Campbell on the phone and the agents are listening. And during  
3 these conversations, Coles is asking Campbell frequently, he  
4 keeps asking Campbell about the work in the car. The work and  
5 the boots. I gotta get the work, gotta get the boots out of  
6 the car.

7 Well the term, the work, is a common street term  
8 agents know, for drugs. Drugs, after all, is a business, it's  
9 their work. And Coles isn't using the term drugs on the phone.  
10 He's calling it, the work.

11 But at the time the agents didn't know what Coles was  
12 talking about with the boots. But Coles is definitely telling  
13 Campbell he's got to get the work and got to get the boots out  
14 of that car. That was May 19th, 2005.

15 Just two days later, by May 21, 2005, agents learned  
16 that Jamar Campbell had been a volunteer fireman for the Green  
17 Ridge Fire Company, Delaware County. And at the time Campbell  
18 was arrested by Delaware County Detectives, he had in his car,  
19 not just the Glock semi-automatic pistol, not just 124 grams of  
20 cocaine, but he also had a pair of fireman's boots in the car.

21 Fireman's boots and a fireman's bunker uniform, the  
22 bunker pants. And you'll see these boots and this bunker  
23 uniform.

24 Well agents quickly retrieved those -- the fireman's  
25 uniform, the boots and the pants, searched them, and found



Bresnick - Opening

Page 24

1 hidden inside the lining of the fireman's bunker pants, another  
2 187 grams of cocaine. Hidden inside the fireman's uniform.

3 Hundred and eighty-seven grams of cocaine. That's  
4 more than 6 ounces of cocaine. That's bigger than the size of  
5 softball of cocaine.

6 Ladies and gentlemen, that's just in the first few  
7 days of the wire. The first few days of the wire. You're  
8 going to hear plenty more about that from Coles himself on that  
9 wire. Over, and over, and over again.

10 Now in addition to the drug dealing you're going to  
11 hear about in this case, and you're going to hear plenty of it,  
12 you're also going to hear about a variety of other crimes  
13 committed by these gang members. Always in an effort to  
14 coverup, hide what they're doing. Conceal their activities.  
15 For example, you're going to hear that the defendant, Asya  
16 Richardson, again, with the blue lapel, lied on a bank loan  
17 application.

18 She lied for Alton Coles. You're going to hear that  
19 Alton Coles in 2005 wanted to buy a new home. A home worth  
20 about -- about a half a million dollars. I think it was about  
21 \$460,000. But as with so many other things, Coles didn't want  
22 to put his name on the paperwork. So what did he do? He had  
23 it titled in her name.

24 Asya Richardson. Asya Richardson is titled on the  
25 property. Even though Coles himself paid \$100,000 down on the

Bresnick - Opening

Page 25

1 property, leaving another \$360,000 outstanding. So Asya  
2 Richardson had to obtain a loan.

3 So she filled out a bank loan application, and, as  
4 with many bank loan applications that I'm sure you know, you  
5 may have seen in your life, they have employment information.  
6 You have to put down where you work, what your income is to  
7 make sure you qualify for the loan. Well on this form, Asya  
8 Richardson stated that she was earning \$9,500 per month.

9 That was a lie. She was not earning \$9,500 a month,  
10 what she was earning was nothing. She was earning zero dollars  
11 a month.

12 She was dependent, fully dependent financially on  
13 Alton Coles and his drug money. And the reason why she lied on  
14 this bank loan application was, because if she had put the  
15 truth that she made nothing, well, of course, she wouldn't have  
16 qualified for the loan.

17 If she doesn't qualify for the loan, she doesn't get  
18 the property. If she doesn't get the property, Coles doesn't  
19 get the property. Well she did lie on the loan and you're  
20 going to see and hear about that during the trial.

21 Now in addition to Asya Richardson's lies, you're  
22 also going to hear about even more lies by Thais Thompson, the  
23 defendant sitting right here at the end. You're going to hear  
24 about how Thompson testified before the Federal Grand Jury that  
25 was investigating this case back in November, 2006.

Bresnick - Opening

Page 26

1 She was told she was under oath. She was told that  
2 if she lied about anything, she could be prosecuted for  
3 perjury, a separate federal offense. She was told that she did  
4 not have to answer any question if the truthful answer to that  
5 question would tend to incriminate her.

6 Nevertheless, she chose to lie. You'll hear she was  
7 asked if she ever paid \$25,000 in cash to anybody, ever, in her  
8 life. She said no, never did. Never have. You'll hear that's  
9 a lie. In fact, the evidence will show and you'll see that  
10 just a few months earlier she had paid \$25,000 in cash to pay  
11 for the lawyer for this man, Alton Coles, Ace Capone.

12 You'll hear about that perjurious testimony in the  
13 Grand Jury. In addition, you'll hear that Thais Thompson was  
14 asked if she was aware of any bank accounts of her boyfriend,  
15 James Morris. Right there, in the corner. James Morris, the  
16 man she was living with at 5 North Burden Hill Road in New  
17 Jersey. James Morris, who had half a kilogram of cocaine in  
18 his car. Had \$560,000 in cash in his home. That James Morris.

19 Well Thais Thompson said, she really wasn't aware of  
20 any bank accounts of James Morris. No, sorry, don't really  
21 know about any of that.

22 That, too, was a lie. In fact you'll hear just a few  
23 months before she testified in that Grand Jury, she deposited a  
24 check into the bank account of James Morris, and she did so at  
25 Morris' direction.



Bresnick - Opening

Page 27

1 And you'll hear about that lie, as well. You'll also  
2 hear that she was asked about the source of the \$560,000 that  
3 was recovered from her home, and she lied about that, as well.

4 Ladies and gentlemen, you're going to hear what Thais  
5 Thompson had to say, under oath, to another federal jury. Now  
6 in addition to Asya Richardson's lies to the bank, in addition  
7 to Thais Thompson's lies to the Federal Grand Jury, you're  
8 going to hear about even more acts of deception.

9 Because this was no ordinary drug gang. In addition  
10 to being violent, and they were violent, ladies and gentlemen,  
11 you're going to hear about shootouts with rival drug gang  
12 members. Including a shootout at the Philadelphia Zoo in April  
13 of 2002 that resulted in a homicide.

14 You're going to hear that this gang was also  
15 extremely sophisticated. Very sophisticated, because Coles and  
16 Baukman, in fact, co-owned a company. It was a music company,  
17 a record company that they called Take Down Records. And they  
18 used this business, Take Down Records, to make themselves  
19 appear to be legitimate businessmen. As a way to explain to  
20 the public their life of extravagance and all the money that  
21 they made, all the wealth that they accumulated over the years  
22 by selling drugs.

23 You see, Coles and Baukman hid their true nature,  
24 their true selves, their true livelihood as violent drug  
25 dealers, in almost every way imaginable.

Bresnick - Opening

Page 28

1           They hid behind their children, as I've discussed.  
2           They've hid behind their girlfriends, as I talked about. They  
3           even hid behind the language that they used. Coles referring  
4           to the black thing, instead of the gun. Coles referring to the  
5           work and the boots in the car. Instead of being clear about  
6           what he's talking about.

7           And, ladies and gentlemen, Coles and Baukman hid  
8           behind this business Take Down Records. Take Down Records,  
9           you'll see, was really nothing more than like Hollywood set.  
10          You know those Hollywood sets, maybe you walk into a kind of a  
11          fake town, you got a bunch of storefronts. Maybe you got a  
12          barbershop here, you got a, you know, saloon there, or general  
13          store. And from the front, well, you know, it looks real  
14          enough, you've got that storefront.

15          But if you kind of take a look around it, you see.  
16          there's nothing there, it's just a store front. There's  
17          nothing behind it. That's Take Down Records.

18          It was -- was just a store front. There was a Take  
19          Down Records, ladies and gentlemen, it was incorporated in  
20          2002. They had rappers. They even -- well, they had rappers  
21          for sure. They even had a studio, meager as it was.

22          But when you get past it, when you get past that  
23          facade, when you get past that store front and you take a look  
24          behind it, there's nothing there. Nothing except the drugs and  
25          the guns and the violence. All associated with Alton Coles and

Bresnick - Opening

Page 29

1 Tim Baukman.

2 Well for one thing, even their rappers were among  
3 those who dealt drugs for Coles and Baukman. For another  
4 thing, you're going to hear about supposed legitimate sources  
5 of income for Take Down Records. Parties that they threw, CD's  
6 they put out. Concerts that they co-promoted.

7 But none of these business ventures made them any  
8 money. They either lost money from them, or if they made a  
9 profit, it wasn't very much. And certainly not enough to  
10 explain the prodigious expenditures of Alton Coles and Tim  
11 Baukman from 2002 to 2005 when Take Down was incorporated.

12 Coles' Mercedes and Bentley, Baukman's Jaguar.  
13 Coles' half a million dollar house. Baukman's \$25,000 in cash.  
14 The one real public display, the one real big public business  
15 venture that they had you'll hear about, it was called the  
16 Spring Hip Hop Explosion.

17 And it was held in the Spectrum in South Philadelphia  
18 in April of 2002. Not long after the homicide at the  
19 Philadelphia Zoo, by the way.

20 You'll hear that there were performers that you might  
21 have heard of at this concert. Beanie Sigel, Jay Zee, as well  
22 as certain rappers under the Take Down name. But you'll hear  
23 that, even from this big venture, they didn't make any money.  
24 Not only did they not make any money, they lost at least  
25 \$10,000.



Bresnick - Opening

Page 30

1           So you'll see in this way that Take Down Records was  
2 just their -- was just their store front. Just their facade.  
3 But when you look around that corner, when you get past that  
4 facade and you look behind it, then you see there's nothing  
5 there.

6           It wasn't pretty. And it wasn't legal. And Coles  
7 and Baukman didn't want you to see it, but we're going to show  
8 it to you.

9           In fact, everything you need to know about Alton  
10 Coles and Tim Baukman, co-owners of Take Down Records, you're  
11 going to hear about in a conversation that the two of them had.

12           It's a conversation between them after one of their  
13 top distributors of cocaine, a man named Dante Tucker, failed a  
14 drug test.

15           You see, Dante Tucker had recently been released from  
16 prison. He went to see his probation officer, took a drug test  
17 and failed. He had cocaine in his system. And Coles and  
18 Baukman are heard on Coles' phone talking about how Tucker  
19 could have failed this drug test.

20           Well, Coles surmises, I guess he wasn't using the  
21 mask and the gloves. I guess he wasn't using the mask and the  
22 gloves. He's breathing it. That's what Coles said. He's  
23 breathing it.

24           Do you know what Coles also said? I always use the  
25 mask and the gloves. I always use the mask and the gloves,

Bresnick - Opening

Page 31

1 ladies and gentlemen. Those were Alton Coles's words. He's  
2 breathing it. Those are Coles's words. And you're going to  
3 hear them.

4 They're not talking about asbestos here, ladies and  
5 gentlemen. They're talking about somebody who just failed a  
6 drug test. So this is Take Down Records. This is Coles  
7 talking to Baukman, this is Take Down Records, ladies and  
8 gentlemen. You got drug dealers for rappers, drug dealers for  
9 ownership, and the sound of gunfire for its primary soundtrack.

10 So at the end of this case, after you've heard all  
11 the testimony, after you've seen all the evidence, after you've  
12 heard all the phone calls of Alton Coles, after you've seen the  
13 financial documents and other records proving that Take Down  
14 Records was simply a shell business, used to shield Coles and  
15 Baukman from the harsh light of reality, we're going to come  
16 back to you, my colleague Rich Lloret and I will come back to  
17 you, and ask that you find the defendants guilty.

18 Guilty of the drug trafficking. Guilty of the lying  
19 to the bank. Guilty of the violence and the gun crimes.  
20 Guilty of the perjury before the Grand Jury. And guilty of all  
21 of the Federal crimes with which they're charged. We'll ask  
22 that you return the only verdict that's reasonable in this  
23 case, the only verdict that makes sense in this case. And  
24 that's that you find all defendants guilty of all counts in  
25 which they're charged.

Warren - Opening

Page 32

1 Thank you all very much.

2 THE COURT: Mr. Warren?

3 MR. WARREN: Thank you, Judge. Wow. That was  
4 something else, wasn't it? What did we hear about here?  
5 Wiretaps, homicides, violent shootouts, machine guns, turf  
6 wars, scales, large sums of cash, gang members, tally sheets  
7 for drug debts.

8 And the list goes on and on. Before I get really  
9 started with this, I'd like you all to ask yourselves honestly  
10 this one question. After hearing all that stuff and after  
11 hearing all the charges that the Judge went over this morning  
12 which comes from this catalog right here. All the stuff he  
13 just said, the charges the Judge discussed, all the stuff that  
14 they say my client did, how many of you all think he's  
15 innocent?

16 Ask yourself honestly that question. As you sit  
17 here, right now, after hearing all that stuff, do you think  
18 he's innocent? Well, folks, the answer to that question should  
19 be, yeah, we sure do.

20 Do you know why? The Judge explained it to you.  
21 It's called the presumption of innocence. Fancy ten dollar  
22 legal word. What did the Judge say? You got to presume the  
23 defendant's innocent. Now what's that mean in English?  
24 Presume means assume. It means, in your head, you are  
25 thinking, what? That's an innocent man.



Warren - Opening

Page 33

1           That's what the presumption of innocence means. The  
2           only thing you've heard right now is a speech. Okay? A  
3           speech.

4           The only other thing you've heard are the charges,  
5           which are contained in the indictment. Now what's that? An  
6           accusation. It's what they say. And all he did is get up here  
7           and tell you how he thinks he's going to be able to prove what  
8           they say.

9           The only thing you've got so far are words. And it  
10          was a very theatrical production. Full of buzz words,  
11          violence, drug dealing. Scary stuff, huh? Serious  
12          allegations, right?

13          That's all you've got. And in order for you to do  
14          what you're supposed to do, you've got to give my client the  
15          benefit of what you said you'd give him. He starts with a  
16          clean slate. Now the only way that he can start with a clean  
17          slate is, if each and everyone of you actually believes in your  
18          heads, that man's innocent.

19          That's how we start this trial. That's how you have  
20          to approach it. If you're not doing that, you're not giving  
21          him, not only what he's entitled, but what all of us are  
22          entitled to. So start out thinking right now, he's innocent,  
23          he's innocent, he's innocent, all three of them are innocent.

24          Okay? That's how you should approach it from this  
25          point forward. They have the burden, not of giving a good

Warren - Opening

Page 34

1 speech, not of trying to use a bunch of character evidence,  
2 violence, a bunch of buzz words. They have the burden to come  
3 forward with evidence, and you haven't heard the evidence yet.

4 And I'm going to talk a little bit about the  
5 evidence, but you haven't heard anything yet. And you should  
6 approach a lot of their evidence with a healthy degree of  
7 skepticism, for reasons I will explain to you in a moment.

8 But let's start out here with what I suggest to you  
9 is going to be the basic dispute between Alton and I on the one  
10 hand, and the entire full force and majesty of the United  
11 States Government, complete with TV monitors and they've got  
12 agents and computers and search warrants and wiretaps.

13 And it's Alton and I, against them. Difficult odds,  
14 to say the least. What do they say? They say, and the Judge  
15 went over them, but they say in this book, I called it a  
16 catalog, these are the actual criminal charges against Alton  
17 and some of the other folks back there. But the basic one and  
18 the one that really drives all the other charges, is this one.  
19 It starts with conspiracy, it's agreeing with other folks to  
20 deal drugs.

21 What's called a continuing criminal enterprise, which  
22 is fancy name for what is sometimes referred to as the Drug  
23 Kingpin Statute. And take a wild guess who they put at the top  
24 of that list? Why, that would be Alton. Not the most  
25 flattering picture, by the way, but that is him. We will give

Warren - Opening

Page 35

1       them that one, all right.

2               Drug kingpin, what's that involve? Drugs.  
3       Possessing guns, to do what? Further a drug trafficking  
4       conspiracy. Drugs. Laundering what? Drug profits. Using a  
5       telephone to what? Facilitate a drug conspiracy. Investing  
6       the proceeds in an enterprise that effects interstate commerce.  
7       Proceeds of what? Drugs.

8               Maintaining a storage facility, for what? Drugs.  
9       All right? The common theme on all these charges that have  
10      been brought against my client are that he is a drug kingpin.  
11      A drug dealer. A violent, gun toting, gang member and tally  
12      sheet drafting drug dealer. And it is summarized in this one  
13      allegation right here. It's called the manner and means  
14      section of an indictment. What the Government does, they --  
15      this is the fifth version of it, by the way, that means this is  
16      version number five. It's called a superceding indictment.  
17      There's nothing super about a superceding indictment. That  
18      just means they added charges as time went by and brought  
19      additional folks into the case.

20              But here's what they really say, and it's stripped  
21      down to one paragraph. It's on page 4, paragraph 2. "Alton  
22      Coles was the leader and organizer of a cocaine and cocaine  
23      base, crack, distribution gang, hereinafter referred to as The  
24      Coles Cocaine Gang, which distributed in excess of five  
25      kilograms, that is, approximately 1,200 kilograms of cocaine,



Warren - Opening

Page 36

1 and an excess of 50 grams, that is, approximately 600 kilograms  
2 of cocaine base, also called crack, conservatively valued at no  
3 less than \$25,200,000, between in or about January 1998 and on  
4 or about August 10th, 2005."

5 That, stripped in a nutshell, is what they say he  
6 did. Now upon reading this, he was actually shocked to learn  
7 that he is a multi-millionaire. Because until he read this, he  
8 didn't really know that he had made 25.2 million dollars during  
9 a 1998 to 2005 time span.

10 It wasn't true. Okay? He doesn't have 25 million  
11 dollars. They keep talking about all this stuff he bought.  
12 These cars, most of them were financed, folks. This house in  
13 Mullica Hill, New Jersey. Well, they put down \$100,000, but  
14 they financed the balance of the purchase price.

15 Most of the things he acquired, that we'll go into in  
16 this case, what you're going to see is they took out loans for.  
17 And, sure enough, some of the stuff was titled in other  
18 people's names. Do you know why? Because this  
19 multi-millionaire here couldn't get credit. Okay?

20 All right. And we'll go into it and we'll go through  
21 the paperwork, but at the end of the day what you're going to  
22 see is, this multi-millionaire, this guy who reaped 25 million  
23 dollars worth of drug sales during an eight year time period,  
24 had to use a girlfriend, or a significant other, to get loans  
25 to buy stuff like cars and a house.

Warren - Opening

Page 37

1           Okay? You may hear about some other properties he  
2           got. Do you want to know where he got those from? Sheriff's  
3           sales. Auctions. Sheriff's sales.

4           Yet according to the Government, he's a  
5           multi-millionaire. As I said, it came as news to him. This  
6           part, the 25 million dollar part, he actually wishes was true.  
7           It's not. Like a lot of stuff you're going to hear in this  
8           case.

9           That's the Government's view of things. That's what  
10          they say. Big, multi-million dollar, crack dealing, gun  
11          toting, gang operating, violent guy, somebody who should just  
12          scare the bejesus out of each and everyone of you.

13          And make no mistake, that's part of what he's doing  
14          there. Guns, drugs, homicides, violence, murders. Scary  
15          stuff. Very scary stuff. That's what they say. And we'll  
16          talk about how they're going to prove that in just a second.  
17          But you're going to see in this case, I suggest to you, and  
18          some of it's going to come from their evidence.

19          And if they don't present it, we'll present it during  
20          our case. The way it works in a criminal trial is that the  
21          Government has the burden of proof. They got to prove all this  
22          stuff. Okay? Therefore, they get to go first. Once they're  
23          done, we get the opportunity to present evidence, if we want  
24          to.

25          We don't have to, but we can, if we want to. And if

Warren - Opening

Page 38

1 they don't present the stuff that we believe balances out the  
2 picture here, we'll put it up there for you . They say he's a  
3 gun toting drug kingpin, homicides, bodies, etcetera, etcetera.

4 What's the sic phrase, full of sound and fury,  
5 signifying nothing. That's not mine, I think Shakespear wrote  
6 it. But that's basically what you just heard.

7 Here's that Alton Coles was. About 1997, 1998, he  
8 was a barber. He cut hair. That's what he did for a living.  
9 Ace Capone, boy, that sounds sinister doesn't it? Ace Capone,  
10 ooh, him, Gotti, whoa, man, that's bad news. They must be  
11 guilty of something.

12 They used nicknames. Ace Capone, he got the nickname  
13 Ace, because he gambled. He had a barbershop, there was  
14 another fellow that worked there, and what you do at the  
15 barbershop is you can sell, lease, rent, whatever you want to  
16 call it, other barber chairs, so that barbers can come in a cut  
17 hair there.

18 The other guy's name was Deuce. Ace, Deuce, that's  
19 where that comes from. And that's because he gambled. He  
20 liked to gamble. But that's where the Ace name comes from.  
21 Nothing sinister about it, it was a nickname. All right. But  
22 it sounds bad. That's why you're going to hear it.

23 Take a wild guess. The Government will not be  
24 referring to him as Alton, or Al. No, it's going to be Ace  
25 Capone.



Warren - Opening

Page 39

1           Why? Because it makes him look bad. It makes him  
2           sound guilty, like a criminal. And they will spin the evidence  
3           as best they possibly can to try and validate what they say  
4           happened here. That's their job, they're advocates.

5           But I'm going to be on the other side, putting you  
6           back in focus here. Ace Capone does not prove anything, other  
7           than it was a name -- a nickname that he used.

8           He's a barber. He rents out other barber chairs.  
9           He's making money doing that. And then he gets involved in the  
10          entertainment industry. A particular branch of the  
11          entertainment industry. The so called rap or hip hop music  
12          industry. And what does that entail? He forms a company  
13          called Take Down Records.

14          Now you listen to Mr. Bresnick here and you literally  
15          think that Take Down Records was constructed of, you know, some  
16          of these legal pads that I have here, and all you got to do is  
17          touch it and the damn thing collapses right there in front of  
18          you.

19          Didn't exist. A facade, an illusion. Fiction. All  
20          right, well it was a real company, folks. And one of the first  
21          thing -- and he took some of the money that he made as a barber  
22          and he formed this company. And one of the first things that  
23          Take Down Records did, and this is no fiction, this is no  
24          fantasy, was they promoted a concert at the Spectrum.

25          And I know not all you folks are from Philadelphia,

Warren - Opening

Page 40

1 but there's a place right at the end of Broad Street, the  
2 Spectrum, a big place they used to play basketball there until  
3 they built another stadium, but it was called the Spectrum.

4 And they produced a rap concert. Beanie Sigel was  
5 there, I don't know if you know him, but he's a fairly renowned  
6 local rapper. There's a guy named Jay Zee who's a big time  
7 rapper up in New York, he ran what used to be called  
8 Rockefeller Records. Again, I don't know much about this, but  
9 apparently it's a big deal.

10 Five thousand people showed up to this concert. Five  
11 thousand people. After that -- so they sold ticket for that.

12 Alton also sold what are called backstage passes.  
13 Okay? So if you wanted to go backstage, if you're sponsoring  
14 the event, you can go backstage. At any concert, it's a big  
15 deal to go backstage with the artists. They sold backstage  
16 passes, so people could get back there.

17 After the concert took place, he hosted what's called  
18 an after party. An after party is where basically all the  
19 people who promoted the event or starred in the event, that  
20 kind of stuff, they go to a club. The club's called Evolution.  
21 You charge money to get in the club.

22 So he went and did the after party. Now he's making  
23 money from this stuff, okay? Cash money. So he did that with  
24 Take Down Records. Guess what else Take Down Records does?  
25 They actually record albums. Rap albums. Now they are not

Warren - Opening

Page 41

1 sold in the Tower Records Store.

2 What they do, is they take local rap artists who want  
3 to record and cut an album, they put it out on a CD and they  
4 actually sell this stuff on the street. Okay? They actually  
5 sell this stuff on the street.

6 But they actually recorded music. They actually  
7 recorded albums. What else did Alton Coles do?

8 Well starting in 2002 and continuing up until 2005,  
9 he hosted weekly parties at a place called the Palmer's Social  
10 Club.

11 And you will hear evidence from one source or another  
12 that, on average, four to six hundred people showed up every  
13 Friday night to go to these parties. Now what happens? They  
14 pay a \$15 cover charge. That's fifteen bucks a head for four  
15 to six hundred people.

16 Sometimes it was higher than six hundred. They had a  
17 rental arrangement with the owner of the club that basically  
18 said, if you get more than eight hundred people inside this  
19 club, you don't have to pay me any rent. But if it's less than  
20 800, around 600, you got to give me \$2,000.

21 All right? And sometimes they didn't have to pay  
22 rent, and sometimes they did. But on average, four to six  
23 hundred people would show up every Friday night to go to these  
24 parties. Now in these parties they'd have a disc jockey in  
25 there and people would come in and they'd pay their \$15 cover



Warren - Opening

Page 42

1 charge.

2 Well I am terrible at math, so you'll be seeing me  
3 use a calculator during many portions of this trial. But all  
4 you got to do is multiply four to six hundred by the number  
5 fifteen, which is fifteen bucks a head, which is what it costs  
6 to get in there, and that's what they were bringing in in cash.

7 Cash. Now is he reporting this cash to the IRS? No,  
8 he is not. He is not doing that. He is keeping it. He is not  
9 paying taxes on it. Confess, we are guilty of not declaring  
10 income on tax returns. We're guilty of not filing tax returns.  
11 You'd of thought that they took the entire criminal code a  
12 charged my client with it.

13 The only thing left out of this is tax fraud, tax  
14 evasion. He's not charged with that. He is not charged with  
15 that, but that's essentially what he's doing. Getting large  
16 sums of cash, selling these rap albums, he's hosting these  
17 parties. And, by the way, on some of these parties during the  
18 holidays every four years or so, I mean, he could bring home as  
19 much as ten thousand a night in cash.

20 Ten thousand. Let's say he would average on Friday  
21 night anywhere between five to seven thousand dollars in his  
22 pocket. Multiply that by four. Okay?

23 I'm not going to do the math, because I'll screw it  
24 up, but you get the idea. All right? Then you multiply that  
25 by twelve. And that shows you what he's bringing in in cash on

Warren - Opening

Page 43

1 an annual basis. Then multiply that up until 2002 to 2005 and  
2 you get some idea of the kind of cash he's bringing in through  
3 hosting these parties.

4 Now what else did Take Down do? Take Down was also  
5 involved in the production of videos. A video. I don't know  
6 if it's correct or referred to it as an MTV video, but it was a  
7 video and it was shot like a movie. I mean, they literally  
8 shot it like a movie and it was called -- and they loved this  
9 folks, they love it. It was called New Jack City, The Next  
10 Generation.

11 Now I don't know if any of you all have actually seen  
12 the original movie New Jack City, but it was a movie that  
13 starred a fellow named Wesley Snipes. And the entire premise  
14 of the movie follows this character Wesley Snipes, and note I  
15 said character, because Wesley Snipes really wasn't what he  
16 pretended to be in the movie.

17 But it chronicles the rise of Wesley Snipes, as a gun  
18 toting, violent, drug dealing, drug kingpin. In this movie,  
19 however, starred him. It was called New Jack City, the Next  
20 Generation. And they filmed it and they shot it and they also  
21 distributed that video.

22 That was some of the way that my client used to make  
23 money. Now what else was he doing? This wiretap that they  
24 keep talking about, basically a wiretap is where they go up to  
25 a Federal Judge and say, Judge, can we listen to this person's

Warren - Opening

Page 44

1 telephone conversations? And the Judge reads what they put in  
2 the paperwork, and if the Judge believes there's good reason to  
3 let them do it, the Judge says, okay, you can go and do it.

4 So what happens is, they get a judge to say it's all  
5 right to listen to the telephone conversations that Alton's  
6 having with different people.

7 So they tap the phone. This starts on May 19th, 2005  
8 and it goes up until August 10th, 2005. And it starts out with  
9 one telephone and then they get permission to do a second  
10 telephone. And they're listening to this stuff and they're  
11 listening to these calls and, you know, admittedly my client,  
12 Alton's on the phone talking to this fellow Jamar Campbell, and  
13 Jamar Campbell had just gotten busted, and he had got caught  
14 with a gun.

15 And Jamar Campbell's wondering what he should do, and  
16 Alton is giving him advice. Telling him what he should do.  
17 Telling him how he should handle the situation.

18 Jamar wants to get his drugs back. He's giving him  
19 advice, telling him how to do it. You're going to hear  
20 multiple instances in which my client is talking to people who  
21 deal drugs. Around people who deal drugs. And they're going  
22 to ask you from that to infer that, boy, he must be a drug  
23 dealer, too.

24 No, folks. That's part of the culture in which he  
25 was born. That is what is depicted in the New Jack City video



Warren - Opening

Page 45

1 that he shot, and produced, and starred in. That is the  
2 reality that he is putting on film. And guess what he's doing  
3 during this time period that they've got the wiretap in place?  
4 Do you want to know what?

5 Shooting another movie. This one's called Menace.  
6 There was an earlier movie, you know, they kept taking stuff  
7 from the '90's and redoing it. But there was an earlier movie  
8 called Menace to Society.

9 Well they're doing another one called Menace. All  
10 right? And some of these conversations that the Government  
11 says are so damning, are so probative, dead bang, flat-out  
12 proof of guilt, is actually him discussing props that are going  
13 to be used in these movies.

14 What do you think these movies are about? The drug  
15 culture. They are about people who deal drugs. They are about  
16 the culture that he's involved in. That he grew up in. But  
17 it's not a part of the way the Government says he's a part of  
18 it. There's a saying that, sometimes life imitates art, or art  
19 imitates life. I don't know which way it is. I don't know  
20 whether or not I got it right.

21 But what they're basically saying is, in some of  
22 these movies where he's dumb in movie about selling drugs,  
23 selling drugs in West Philadelphia, playing a character, okay.  
24 They basically believe that those movies, those productions,  
25 were actually art imitating life.

Warren - Opening

Page 46

1 Well they're right in one respect, okay. It was an  
2 art form and it was imitating life, just not his life. It was  
3 fiction. All right?

4 It was art imitating somebody else's life, not his.  
5 All right? Now how does the Government transform Alton into a  
6 fairly successful, young and up and coming member of the  
7 entertainment industry? How do you transform him into a drug  
8 kingpin?

9 Well, they're going to rely primarily upon three  
10 things. And I'm leaving out the stuff that was found in the  
11 search, and we'll go into that. All right. It will go into it  
12 in the evidence, but in some of these films, guess what you  
13 see? Money counters. Ooh. Why? Because drug dealers use  
14 money counters. If you're making a movie about drug dealers,  
15 and you want it to be realistic, you're going to want to have  
16 the props.

17 So, yes, they found stuff in there. Now they didn't  
18 find any drugs in his house, but that's why they're trying to  
19 say he's responsible for all these other houses. But put that  
20 aside and deal with it individually, but primarily you're going  
21 to have three forms of evidence here.

22 Tapes. What are the tapes? That's where the Judge  
23 said, okay, you can record his conversations. So they're going  
24 to have these tapes and they're going to say, boy, look at  
25 this, this is really, really bad stuff.

Warren - Opening

Page 47

1 All right? Well take a close look at the tapes, all  
2 right? Does he use slang, jargon? Sure. I'm not standing up  
3 here telling you he doesn't know drug jargon, he doesn't know  
4 drug slang. He's making movies about it, realistic movies  
5 about it, of course, he knows it. Of course he knows people  
6 that are involved in it. But that doesn't make him part of  
7 that particular business.

8 That doesn't transform him into a kingpin. Some of  
9 the tapes are references to props they're using in the movie  
10 they are filming at that time. Menace -- I think it was called  
11 Menace. It may be Menace to Society, but Menace, because  
12 they're filming a movie and you'll hear about this on the  
13 tapes.

14 And we'll deal with the tapes individually, as they  
15 come up. What else are they going to have? They're going to  
16 have expert witnesses. Ooh, expert witnesses. Man, that  
17 sounds impressive doesn't it?

18 Expert witnesses. And what are these expert  
19 witnesses going to say? Well these expert witnesses are law  
20 enforcement types. They're basically federal agents. And  
21 these federal agents are going to get up there and say, you  
22 know, I've been doing this for a long, long time.

23 And, you know, every time I hear the phrase -- some  
24 of the phrases they use in this case are superman. Well that's  
25 a reference for drugs. Little boy, that's a reference for



Warren - Opening

Page 48

1 drugs. And then they're going to sit there and say, ah-ha,  
2 Alton's using those words. He must be a drug dealer.

3 They are describing props. But what the expert can't  
4 tell you, by the way, is what they really meant. Okay? What  
5 was in their head. He can't know that, he's not that good an  
6 expert.

7 He can't read somebody's mind, so he can't tell you  
8 what somebody actually meant. What somebody actually knew.  
9 They're going to bring up another expert. And an expert's  
10 going to get up there and explain to you folks how drug dealing  
11 operates. And I'm sure this expert's going to get up there and  
12 say, I have looked at everything the Government's provided me  
13 on Mr. Alton Coles, and, you know what, his entire lifestyle,  
14 everything he does is perfectly consistent with my  
15 understanding of the way drug dealers operate.

16 Well thank you very much. He doesn't know squat.  
17 Okay? Really, he doesn't know squat. What he's doing is, he's  
18 telling you that I've looked at this stuff in the past, they  
19 all have the common characteristics, they got the common  
20 characteristics here, so he must be involved. But he really  
21 doesn't know. They're going to bring somebody up here to say,  
22 you know, I looked at the number of telephone calls between  
23 these people and they talk to each other a lot on cell phones.

24 And these were really short conversations. And based  
25 on my extensive experience and numerous criminal

Warren - Opening

Page 49

1 investigations, I can tell you that is consistent with drug  
2 dealing.

3 Well the problem with that is nobody is hearing those  
4 particular conversations. All he's really telling you is that  
5 they communicated with one another a lot. What's the bottom  
6 line? He really can't tell you what's going on.

7 He really can't. Because, again, one person cannot  
8 get up and tell you what somebody else knows, what somebody  
9 else is thinking.

10 So how are they going to put this case together,  
11 what's it really going to come down to? What's their primary  
12 proof? Well it's something like this. I bet you folks didn't  
13 know this, but in the past, oh, I don't know, eight, ten years  
14 or so, Philadelphia's become something of a factory town.

15 But, you know, we don't make cars and we don't make  
16 appliances, or radios, or anything like that. You know, we  
17 manufacture cooperating witnesses. And there is a production  
18 facility at 7th and Arch.

19 And it spits them out in assembly line fashion, one  
20 after another. And what is a cooperating witness? You briefly  
21 heard Mr. Bresnick allude to it. A cooperating witnesses is  
22 somebody who is in a whole lot of trouble.

23 Somebody typically facing a substantial, substantial  
24 term of imprisonment. Somebody who is typically held without  
25 bail from the moment they're arrested and charged. And where

Warren - Opening

Page 50

1 are they taken? They're taken to a place called the Federal  
2 Detention Center.

3 And it's right here behind us at the corner of 7th  
4 and Arch. And they sit there and they begin to look at the  
5 charges, and they know they've got prior convictions. And the  
6 more convictions you got, the higher the sentences go.

7 And they begin to think that they're caught red  
8 handed. There's no way out of this. Ah, but there is a way.  
9 There is a way out of this.

10 You enter into a cooperation deal with the  
11 Government. You know how you get out from under some of these  
12 horrendous sentences that you look at in Federal Court? I  
13 mean, some of these guys could be looking at life in prison.  
14 There is no parole in the Federal system.

15 So when you're looking at life in prison, and you're  
16 caught red handed, and you've done multiple drug deals that are  
17 on tape, that are surveilled, that you cannot get out of,  
18 unless you cut a deal with these guys, your only way out of  
19 prison is with a toe tag.

20 Because you will die in jail. That's what these guys  
21 are looking at. And what do they do? They decide to take a  
22 lifeline. And the lifeline comes from these people here.  
23 Because the way the law works, and you'll hear a lot more about  
24 this, but the way the law works is, the judge in many instances  
25 has got to impose a particular sentence. Usually a bad one, a



Warren - Opening

Page 51

1 long one. And there's also what they call guidelines, or  
2 sentencing guidelines. And what they basically do is recommend  
3 to a judge what the people who wrote them think is an  
4 appropriate term that you should be sent away for, and it's  
5 usually a long long time.

6 But the Government, the way the sentencing laws work,  
7 if you help them out, join their team, so to speak, they can  
8 file paperwork, a piece of paper with the judge, that says,  
9 judge, this guy helped us out, he provided substantial  
10 assistance.

11 And if the Government files that piece of paper, the  
12 judge's hands are untied. No longer have to send the person  
13 away for potentially life.

14 Thirty years, forty years. That's how they get out  
15 from under these sentences. That is what I suspect each and  
16 every cooperating witness that is going to be brought here in  
17 front of you has done in this case.

18 Now I'm kind of at a disadvantage, and my colleagues  
19 are as well. Because we don't know who these cooperating  
20 witnesses are. I listened very closely to Mr. Bresnick's  
21 opening and he didn't mention them by name.

22 Just referred to people who lived with him. I think  
23 I know one, and I'll talk about her in a second. But people  
24 who lived with him, people who were involved with him. We  
25 don't know who they are.

Warren - Opening

Page 52

1 Normally, I could stand up here -- and quite frankly,  
2 I don't know at this point what they have said about my client.  
3 See, normally I would get up here and I would say, well, I've  
4 seen statements from these people. I've seen the plea  
5 agreements that they have with the Government.

6 I know what they were looking at in terms of  
7 sentence. And I know what tremendous incentive or motivation  
8 they have to keep these fellows happy over here.

9 I don't know who their witnesses are. They haven't  
10 told me yet. So I can't predict, or stand up here and tell you  
11 what it is I think they're going to say, or what our response  
12 is to whatever it is they're going to say.

13 Now a week before these witnesses testify, I'm going  
14 to be told who they are. And I'm going to figure out what it  
15 is they're going to say.

16 The only reason I'm going into this right now is,  
17 please do not draw any negative inference or hold it against us  
18 because I cannot anticipate what these folks are going to say  
19 because, quite frankly, I don't know who they are yet.

20 But I guarantee you this, okay. I guarantee you,  
21 with the exception of one, their accommodations are at the  
22 Federal Detention Center over there. They have plea agreements  
23 with the Government. They were facing substantial terms of  
24 imprisonment.

25 They were probably caught red handed on multiple drug

Warren - Opening

Page 53

1 transactions, have prior convictions, and are facing horrendous  
2 sentences. They're really put in a box and they have no  
3 choice. The only choice they have is to cooperate with these  
4 folks.

5 Do you know what else you're going to hear about this  
6 Federal Detention Center? You're going to hear, and it's  
7 amazing, but they also like to say typically, well, you know,  
8 our witnesses, they don't communicate with each other. So if  
9 witness A is saying the same thing as witness B and they're not  
10 communicating to each other, well it must be true, because  
11 they're saying the same thing.

12 Well over at this place, the Federal Detention  
13 Center, they have a unique communication system. It is called,  
14 hollering through the bowl. Okay? And you want to know how it  
15 works? Let's say you're up on the fifth floor, and you want to  
16 communicate with somebody down on the third floor, you go right  
17 to the corner of your cell, you flush the toilet and you start  
18 screaming into the plumbing system.

19 You can communicate with somebody down on the third  
20 floor, who, in turn, can relay a message to somebody else.  
21 Sometimes they are put on the same block as one another.

22 So there are ways for these people to communicate.  
23 And we will explore, in sometimes vivid detail, exactly how it  
24 works. Hollering through the bowl, and a concept, which I'm  
25 going to start this trial out and introduce you to, it is



Warren - Opening

Page 54

1 called case jumping.

2 What is case jumping? Well over in that building  
3 over there, you got a whole bunch of people who are caught red  
4 handed. And they're looking for ways out of these sentences.  
5 The best way to get out is testify. I'm a witness. See not a  
6 to of people go to trial.

7 But when you find one who is, it's like a feeding  
8 frenzy. You jump on the case. You try and get that sentence  
9 reduction. That's the mentality you're dealing with over  
10 there. You take human beings, you catch them red handed, you  
11 put them in a situation to where they're either locked up for  
12 the rest of their life or for most of their lives and you say,  
13 the only way you can realistically get out of this is to  
14 provide evidence against another human being.

15 What do you think they're going to do? They're going  
16 to look for every conceivable opportunity they find to get  
17 themselves out of trouble and get themselves out of jail,  
18 regardless of what it takes.

19 Those are the people that the Government are going to  
20 be bringing in here to you. Those are the people that the  
21 Government are going to use to transform him into this drug --  
22 gun toting, violent, drug dealing -- all that stuff he said.  
23 All right. They come into this courtroom with a lot of  
24 baggage.

25 Now I do know one of them. One cooperating witness

Warren - Opening

Page 55

1 is a young lady named Kristina Latney. And Kristina Latney is  
2 the mother of my client's son, Naseem. And on August 10, 2005,  
3 the FBI swooped in, like he said, they fanned out all over the  
4 place, and they went in like Sherman tanks, or the Blitzkrieg  
5 in Nazi Germany, they went in and they knocked down everything,  
6 and they went into this house and they found guns, and they  
7 found, I think it was about a hundred thousand dollars.

8 All right? But I already told you, he makes a lot of  
9 cash from these parties he's hosting and some of the activities  
10 they claim do not exist, all fiction. All right?

11 That happens about 6:00 in the morning. Six thirty.  
12 Now Kristina Latney is scared. Justifiably so. The Federal  
13 Government just busted down her door, went in there. There are  
14 firearms in there. There's cash in there.

15 And she sits down and she says she wants to cooperate  
16 and help out the Government. And she proceeds to give a 33  
17 page statement. Now most of this statement is her basically  
18 agreeing to what the agents say. Okay?

19 The agent's saying, well Take Down Records, that was  
20 a shell company that Alton used to launder his drug proceeds,  
21 right?

22 Well they try and get her to say that, but it ain't  
23 coming out exactly right. So he asked the question about three  
24 or four times and finally the agent just says, this is a shell  
25 company that was formed for Alton to launder money, he calls

Warren - Opening

Page 56

1 him Ace, by the way, for Ace to launder money? And she's like,  
2 um-hum, yeah. All right. That's basically the way her  
3 statement goes down.

4 Now what she actually testifies to here at trial,  
5 we'll have to wait and see. But they took a scared young woman  
6 who basically was found with firearms in there, who doesn't  
7 know what to do and is worried about her kids, gave her reason  
8 to believe that she might be in trouble. And she essentially  
9 agreed to what these fellows were saying.

10 That I know is at least one witness that they're  
11 going to have testify against Alton.

12 There are supposedly six others. You know, two weeks  
13 ago there was only four of these, what I call mystery  
14 witnesses. It's not really a mystery. They're somewhere on  
15 this indict -- maybe they are on this indictment, maybe not.  
16 Okay?

17 Remember what I said about case jumping, you start  
18 seeing fellows that are not on this indictment all of a sudden  
19 show up here and testify, jumping on a case, trying to get out  
20 of trouble.

21 But a couple of weeks ago, it was just 4. Okay?  
22 Last week it was six. It sounds like two new converts to the  
23 fold have decided to become cooperating witnesses in the last  
24 week or so. Again, I don't know.

25 We're just going to have to wait and see. And I am



Warren - Opening

Page 57

1 almost done here. Let me tell you a couple of things we don't  
2 dispute. Did he possess weapons? Yes. Yes. He possessed  
3 weapons. He did. He sure did. That is not the issue in the  
4 case. The issue in the case is, why did he have the weapons?  
5 Did he have the weapons because he was leaving clubs at 2, 2:30  
6 in the morning with five, six, seven thousand dollars in cash  
7 and didn't want to be robbed? That's what we say.

8 And, again, I don't have to prove it. But that's  
9 what we say. Or did he have it because the Government says it  
10 was to protect his drug empire? The issue is not, did he have  
11 the guns, the issue is, why did he have the guns.

12 He certainly possessed weapons. But why did he  
13 possess them? The Government's got to show you it was to  
14 protect drugs and in furtherance of drug dealing and in  
15 relation to etcetera, etcetera, etcetera. The Government's got  
16 to prove to you that it involved drugs.

17 That's why he had the guns. Not for self protection,  
18 to prevent him from getting robbed of cash, that he was getting  
19 by hosting some of these parties. Did he try to hide stuff  
20 from the IRS by putting it in other people's names? Yes, he  
21 sure did.

22 The Government says it wasn't to prevent him from  
23 having to pay taxes on it and that kind of stuff. No, no, no  
24 it had nothing to do with that. The Government says it was to  
25 launder, hide, drug proceeds.

Warren - Opening

Page 58

1           So the issue is not, did he put stuff in other  
2           people's names. Okay? That's not the issue. The issue is,  
3           why did he do it. Did he do it to launder, or hide, disguise  
4           drug proceeds? That's what they say. Or did he just not want  
5           the IRS knowing that he was making large sums of cash?

6           Or, sometimes, was this stuff put in other people's  
7           names because he couldn't get credit? They say it's to hide  
8           drug proceeds, we say to keep money from the IRS and because  
9           sometimes he couldn't get credit. Which I think you'll find,  
10          by the way, when they bought that house in New Jersey, part of  
11          the reason his name disappeared from it, is because he couldn't  
12          get credit.

13          All right, that was part of the problem. Okay. But  
14          we don't dispute that. Did he know and associate with  
15          individuals who were involved in dealing drugs, drug dealing?  
16          Yes, admitted. Okay? Take that out of the equation. He sure  
17          did. Okay? But you folks are going to sit there and associate  
18          and stand next to each other for months, okay?

19          But just because you associate with one another does  
20          not make you responsible for what the other person has done.  
21          Same thing works in the law.

22          Hanging around with somebody, knowing somebody,  
23          associating with somebody, especially if part of its trying to  
24          produce realistic motion pictures, does not make you part of  
25          the business that that other person is involved in.

Warren - Opening

Page 59

1           No more than it made Wesley Snipes an actual drug  
2           kingpin, or Denzel Washington an American Gangster, just  
3           because he starred in the movie, did research on it. It is a  
4           film. With respect to him, it is fiction. It is an art form,  
5           and to some extent it did, it did reflect, chronicle,  
6           photograph and film life, real life.

7           Which is very harsh, it is a harsh reality, but it's  
8           not his life. And I suggest to you that the only way you can  
9           come to a contrary conclusion, is if you agree and find  
10          credible the cooperating witnesses that have been churned out  
11          at the factory behind us.

12          I suggest to you that they're not going to be worthy  
13          of belief. They are not going to provide the type of evidence  
14          that would allow you to find beyond a reasonable doubt that he  
15          is what this book says, minus the 25 million bucks, and what  
16          these witnesses say.

17          I want to thank you for your time and I'll see you  
18          when the trial's over and I get to talk to you again.

19          THE COURT: Okay. Ladies and gentlemen, you have  
20          been sitting for about an hour and a half, we're going to take  
21          a ten minute recess. Go out and relax, and we will hear the  
22          balance of the opening statements.

23                               (Jury Exits Courtroom)

24                               (Recess)

25          THE COURT: Mr. McMahon?



McMahon - Opening

Page 60

1 MR. MCMAHON: Yes, thank you, Your Honor.

2 Good afternoon. Let me reintroduce myself, since it  
3 was a long time ago since we all met. My name is Jack McMahon.  
4 I'm an attorney in Philadelphia. And as I said in the  
5 beginning of today, I represent Timothy Baukman, seated just to  
6 my left there during the course of the trial.

7 But I think the first obligation that any lawyer  
8 standing before a jury should fulfill, and that is to thank  
9 them. Because it's real easy to thank somebody after a trial  
10 and the verdict goes whichever particular way you want it to go  
11 and then you thank them. Oh, thank you very much, I appreciate  
12 it, you went my way.

13 But that's not the purpose of my thanking you at this  
14 point in time. Because you people, particularly you people in  
15 this particular jury, are going to be sitting for a significant  
16 period of time.

17 Many jurors will sit for a week, four or five days.  
18 Even two weeks, sometimes. But you are going to be longer than  
19 that. So on behalf of Mr. Baukman and myself, and Mr.  
20 Baukman's family, we thank you ahead of time. Whatever your  
21 verdict is in this case, we appreciate your service.

22 Taking time from your family, your jobs and your,  
23 just day-to-day lives to come here every single day, and some  
24 of you from great distances.

25 And I truly mean it when I say we appreciate it.

McMahon - Opening

Page 61

1 Because whatever you do in this case, whatever you do in this  
2 case will be the right thing, because that is our system.

3 Our system is that the collective minds of this jury  
4 will do the right thing, will do the fair thing, and will do  
5 the just thing. And when you leave this building for the last  
6 time, weeks from now, and you walk back out onto Market Street  
7 and go about your regular life, each and everyone of you should  
8 be proud of yourself.

9 Whatever your verdict is in the case, you should be  
10 proud of yourselves, because you did a service, an  
11 extraordinary service, whatever your verdict is.

12 So, again, preliminarily, thank you. Now the  
13 Government, these are opening statements, and opening  
14 statements are not supposed to be arguments or -- those will  
15 come later when we have a opportunity to give our closing  
16 arguments after evidence.

17 These are statements where we're trying to say what  
18 you will hear, what you won't hear in a particular case. And  
19 the Government went first and Mr. Bresnick gave a presentation  
20 of what he intends and what he hopes to prove.

21 And as Mr. Warren pointed out, the Government that  
22 brought this case has extraordinary power, they have  
23 extraordinary resources. They have extraordinary manpower.  
24 You've heard all the ones just pointed out to here in this  
25 courtroom here today. And that's just the tip of the iceberg

McMahon - Opening

Page 62

1 of the people that they have access to that they used through  
2 the course of this investigation.

3 And they've used wiretaps, they've used search  
4 warrants. They've used all the various resources of the  
5 Federal Government over a significant period of time to try to  
6 bring a case to you that's going to have a quality and a  
7 reliability that will enable you to convict any or all of the  
8 defendants.

9 So and they've had that ability, and they used that  
10 ability in this particular case over a year period of time.  
11 And I say that to you, because I think it's important, when you  
12 look at this case, and what you're really going to hear and not  
13 and, as Mr. Bresnick in his opening stood before all of these  
14 defendants, and stood before them as if -- and pointed at them  
15 and walked around the room pointing at them, as if that was  
16 some sort of evidence.

17 As if that was some sort of dramatic effect. That  
18 that was -- they're more serious about the case, because he  
19 could walk around the room, because he's these men are just  
20 seated there, and he can point at each and everyone of them and  
21 I suggest to you to, attempt to degrade them in some fashion by  
22 pointing at these men sitting here, who have no other recourse  
23 by to have Mr. Bresnick put his finger in their faces.

24 Well it's not about finger pointing, it's not about  
25 Mr. Bresnick putting his finger in their faces. That means



McMahon - Opening

Page 63

1 nothing. That's showmanship. And it's kind of rude, really.

2 The case is about evidence. And the case is about  
3 quality of evidence. And the case is about credible evidence.  
4 And I want you to remember those words through the course of  
5 the next few weeks. Quality of evidence and credibility of  
6 evidence. Because those are the buzzwords that the Government  
7 did not talk about.

8 They talked about all the buzzwords that Mr. Warren  
9 talked about. But the words I want you to remember are quality  
10 and credibility. Quality means just that. The worth from that  
11 testimony. Credibility means, the believability of that  
12 testimony.

13 And I want you to understand something. The  
14 Government began this investigation of my client, and,  
15 remember, I represent Timothy Baukman. The fellow seated right  
16 there. They started this investigation in August of 2004.

17 And they continued investigating, what they have told  
18 you here today is a major drug organization, for over a year  
19 period of time, with all the resources of the Federal  
20 Government.

21 Surveillance, video cameras, pictures, wiretaps, pen  
22 registers to detect phone calls. All the science that is  
23 available in 2004 and 2005 in this country.

24 And according to them, this is a major, major  
25 organization. And according to them, my client Timothy Baukman

McMahon - Opening

Page 64

1 was a high player in this. And Mr. Baukman was, as Mr.  
2 Bresnick said, second in command, or the first lieutenant, or  
3 something to that effect.

4 So it would seem then, that if that's correct, that  
5 if in fact that's true, and they have all these resources, and  
6 they have all this ability to investigate, that they're going  
7 to come forward with real quality evidence and credible  
8 evidence against Mr. Baukman.

9 Well I suggest that's not what's going to happen.  
10 When evidence is presented in a criminal case against a  
11 defendant, it's going to come in certain form. This is a drug  
12 case. So what is one of the things that one would expect to  
13 see in a drug case? Drugs.

14 You're going to expect to see my client, a supposedly  
15 a major mover and shaker of kilos and bricks, and cocaine and  
16 over a year period of time. Moving it, selling it, disposing  
17 of it quickly, getting rid of it. And he's the second in  
18 command.

19 Well with all the resources of the Government, you  
20 are not going to hear, you are not going to hear one single  
21 drug transaction that Tim Baukman was involved in. You're not  
22 going to see the drugs were transferred by him, in his  
23 possession, in his hands where he handed them to an undercover  
24 agent.

25 Where he handed them somebody else. Where he was

McMahon - Opening

Page 65

1 surveilled carrying a package that alleged to be drugs.  
2 Anything at all that even remotely resembles the fundamental  
3 part of this case, and that is drugs. They are not going to be  
4 able to place that into the hands of Timothy Baukman, and yet  
5 they watched him all the time for a year.

6 For a year, with the full power of the Government and  
7 they did not have a drug that they're going to put up there  
8 that they can associate to Timothy Baukman. How can that be,  
9 if in fact he was this player that they say he was?

10 Is the Government unable to do that? They can't do  
11 that with all their power, with all their skills, with all  
12 their technology they can't give you one scintilla of evidence  
13 with this major player having drugs, holding drugs, around  
14 drugs. Nothing.

15 They're going to present to you tapes, tapes. Now  
16 one would think, if he's the second in command of any  
17 organization, whether it be IBM, a drug organization, whether  
18 it be anything, if you are able to get inside the power  
19 structure of the two major players, Mr. Coles and Mr. Baukman,  
20 that you're going to hear a lot of talk about what the purpose  
21 of their organization is.

22 Drugs. If you're listening to them each and  
23 everyday, for five months, it's going to be real simple to  
24 determine through the tapes that you hear, because they're  
25 going to be talking about money and drugs, and where to move it



McMahon - Opening

Page 66

1 and where we got to have it and -- every single day, because  
2 this is an organization, this is a business, as Mr. Bresnick  
3 said.

4 And business needs to talk everyday. And the head  
5 guy has to talk to the second guy, and there has to be things  
6 moved and things arranged, and money to be paid, and things to  
7 be done, in a business.

8 And they had those tapes, and they had conversations.  
9 And none of them, none of them are going to have anything,  
10 anything remotely resembling what you would expect to hear, if,  
11 in fact, the defendant, Timothy Baukman, was the second in  
12 command of this 25 million dollar drug operation.

13 Listen for those tapes, and see if that backs up what  
14 they're saying, that there is this second in command of any  
15 organization, much less a 25 million dollar drug organization.

16 They're going to present to you, as Mr. Warren  
17 stated, cooperating witnesses. And I don't like to call them  
18 cooperating witnesses, it's too sanitary and too clean. It  
19 gives them an air of of integrity that I don't suggest they  
20 deserve.

21 Cooperating means like, well we're just helping out.  
22 Cooperating. Well I suggest to you what they are, what they  
23 really are, and what you're going to hear when you hear the  
24 testimony of these individuals who Mr. Warren aptly pointed, we  
25 don't know who they are at this point. What you're going to

McMahon - Opening

Page 67

1 hear are that they are miscreants.

2 They are low life's, they are rats, they are skunks.  
3 They are not cooperating witnesses. You know, there's an old  
4 saying, that desperate men, do desperate things.

5 And these are truly, truly low life, miscreant,  
6 desperate men. And you take low life, low character,  
7 miscreant, desperate men, and you put a situation where their  
8 lives are at stake, their lives are at stake. Their ability to  
9 walk around free ever again is at stake.

10 And to take their statements that they say to protect  
11 themselves from that as reliable and credible, as I said  
12 earlier, strains commonsense and strains you good people's  
13 understanding of human nature.

14 There's an old saying also that, you could have the  
15 friendliest of dogs, and you can have a dog that you -- never  
16 bite, never bite. But, you know what, if you corner that dog,  
17 if you get that dog into a corner and leave it no other  
18 options, he has no other place to go, that friendly dog, that  
19 otherwise friendly dog, will do, what? He'll bite. Because  
20 it's his only way out. It's his only way out.

21 And that's exactly the type of people you're going to  
22 hear from in this case. Exactly the type of individuals you're  
23 going to hear. You're going to hear people, not of quality, as  
24 I said. Remember the buzzwords? Not of credibility.

25 You're going to hear people of the lowest of

McMahon - Opening

Page 68

1 character, of desperate men, of dogs who will bite, of rats,  
2 skunks and low life's.

3 That's what they are. They're not cooperating  
4 witnesses. They're going to have surveillance pictures.  
5 Potentially, videos. They're going to have all these things  
6 over a year period of time.

7 And I want you to listen very carefully and watch  
8 very carefully to see all the times that they put drugs into  
9 the hands of the second in command of this major drug  
10 organization.

11 And do you know how many times they're going to do  
12 that through those types of evidence? Zero. Zero. Over a  
13 year period of time. A year. You'd think one time they could  
14 get something, to have drugs on this investigation, but they  
15 don't.

16 This is a situation where Mr. Bresnick has said to  
17 you, and pointed at my client and said that he hid all these  
18 assets. And when you hear that, you have a knee jerk reaction  
19 that he hid all these assets in all these names and made it  
20 seem as if there's a substantial situation going on where he's  
21 hiding assets.

22 Well it's just not true. That's just not the  
23 evidence that you're going to hear. You're going to hear that  
24 Tim Baukman owns no properties. Not in his name, not in  
25 anybody's name. So don't get fooled as if he's some landlord



McMahon - Opening

Page 69

1 that has, or property owner that has properties in his  
2 girlfriend, or son's, or anybody -- he owns no properties, this  
3 second in command.

4 He rents an apartment in the Germantown Section of  
5 Philadelphia, with his girlfriend. Rents it. He owns no other  
6 assets. He had a car. This Jaguar that the Government pointed  
7 to. It was a '99 -- 1999 Jaguar that he liked, that he paid  
8 for by financing. And you'll see the checks in this case of  
9 \$580.59 that he paid for, every month, for his car.

10 A 1999 Jaguar. That's the extent of the assets that  
11 they are going to show as to Mr. Baukman. They went one  
12 further, they said he had \$25,000 cash when they raided his  
13 house -- or apartment, it's not even a house, it's the  
14 apartment that he rents with his girlfriend.

15 Obviously, that's accurate. But you heard, and not  
16 to go over it in much more detail than Mr. Warren indicated,  
17 but you're going to hear that he was in fact partners with Mr.  
18 Coles. And he was partners with Mr. Coles in this Take Down  
19 Records. And you're going to hear much of how they did make  
20 cash.

21 Much of it Mr. Warren already indicated. For  
22 example, that after party that was made after the hip hop at  
23 the Spectrum, that was exclusively, the rights to that was to  
24 Timothy Baukman. And they paid a hundred dollars, they made --  
25 he made almost \$70,000 cash at that after party.

McMahon - Opening

Page 70

1           They set -- they set up parties for an investment  
2 banker one time and filmed it. And there's actually, the  
3 Government seized the photo, and made money on that. They had  
4 all these parties, and these holiday parties. So this was a  
5 cash situation that they were in that they were making. Take  
6 Down Records wasn't a situation where they got checks  
7 necessarily, although they were financed and how they did their  
8 work.

9           But they would sell these videos to stores, to mom  
10 and pop stores, and they would get cash for it. It wasn't like  
11 -- they would sell ten of them to the corner store to be sold  
12 and they would get ten dollars for each of them, they would get  
13 a hundred dollars cash. They sold approximately 10,000 of  
14 these. So there was cash available to them. So the fact that  
15 he may have had \$25,000 cash in an apartment that he rented, is  
16 not so odd and so surprising, when you consider the nature of  
17 the work that he did in the business that he did.

18           Mr. Baukman's a 31-year-old young man, graduated  
19 Overbrook High School. He has one child who, you heard about  
20 from Mr. Bresnick, Tauheed, and his girlfriend Tiffany. And  
21 they rented that apartment. He -- his trade for a period of  
22 time was heating and air conditioning.

23           He took -- after graduating high school, took classes  
24 at CHI, which is a trade school, to learn heating and air  
25 conditioning and worked in that field for a while.

McMahon - Opening

Page 71

1           Then he got into this hip hop records and Take Down  
2           and making videos and CD's and whatnot, and that's where he  
3           spent most of his time over the last few years.

4           So this is a situation where they did have cash,  
5           where they did do these things. And Mr. Baukman has not hidden  
6           secret assets at all. And, yes, the car was in the name of his  
7           son, Tauheed.

8           And, yes, the apartment on Essex Avenue was in the  
9           name of Tauheed Baukman. And the Government has told you that  
10          he did this in some attempt to hide all his assets from the  
11          Government.

12          Well how absurd is that proposition, to put it in  
13          your son's name, who's about 8 or 9 years old, and be writing  
14          the checks out of that account, to think somehow the Government  
15          wouldn't be able to trace that to you. And that was some kind  
16          of sophisticated plan to hide assets from the United States  
17          Government, is absurd.

18          The reason that it was in that name, and the reason  
19          why the apartment was in that name, was because, similar to Mr.  
20          Coles, Mr. Baukman did not have good credit. And to purchase  
21          the Jaguar under his name, he would not have had the ability  
22          with using his name to get the financing to pay \$580.59 a  
23          month. So it was put into another name, his son's name, who  
24          came up clean, as far as credit's concerned, and he was able to  
25          finance the car.



McMahon - Opening

Page 72

1           The apartment on Essex Avenue was put in that name,  
2           also for the same reasons. Apartment buildings want people  
3           with decent credit. They put it in a different name. Although  
4           he paid it under his son's name all the time. But there are no  
5           other hidden assets, there are no other secret things put into  
6           girlfriend's name, hidden names, money, safe deposit boxes.  
7           Nothing of the sort.

8           So if he is partners in a 25 million dollar drug  
9           operation, as the Government says in their case, then the asset  
10          analysis of Mr. Baukman does not corroborate, or suggest, in  
11          any way, shape or form that that's true. Because as I said  
12          before, these are the only things that he possessed.

13          Now Mr. Bresnick told you that this location at Essex  
14          Avenue was, in his words, were a treasure trove. And indicated  
15          that this was in Baukman's son's name as a location that he  
16          controlled.

17          Well, true, he did pay for the rent on the premises  
18          of 339 East Essex. And that's true. And the reason that --  
19          and he had that for a long time, back from 2001. And he lived  
20          there once, a long time ago. And basically lived there a  
21          period of time for a couple of weeks in 2001, I believe, when  
22          he was having some rift with his girlfriend at the time.

23          But he didn't live there. He lived at 22967 (sic)  
24          School House Lane with his girlfriend Tiffany. That location,  
25          which the treasure trove, as Mr. Bresnick has indicated to you,

McMahon - Opening

Page 73

1 is not a place where he resided, although he paid the rent  
2 through his son's account, for the purposes I've already  
3 stated, it is not a location that he resided in. It was not a  
4 location that he really had dominion and control over. It's  
5 not a location where he was aware of the items that were in  
6 there.

7 The person that resided there and stayed there was  
8 his cousin, his cousin, Dante Tucker, who is a name that you  
9 heard in this case. Dante Tucker had come out of prison in  
10 April of 2005, and needed a place to stay. And he had his  
11 cousin staying from time at 339 East Essex Street, because it's  
12 a place that he had available to him and was paying the rent  
13 for. So Dante Tucker, in fact, was living there at the time of  
14 the search of August the 10th of 2005.

15 And my client was living at 2967 School House Lane.  
16 There is nothing else in this case that will tie my client to  
17 dominion, control, knowledge, or any of the items that are  
18 found within 339 East Essex.

19 And if you want to speak to the person that knows  
20 what is in 339 East Essex, it's not the person paying the rent,  
21 it's the person that's staying there and living there, and  
22 that's one Dante Tucker.

23 They do go and search my client's house, 2967 School  
24 House Lane. And you would think, if he is this major  
25 participant in a big drug business, that you're going to find

McMahon - Opening

Page 74

1 something. They find no drugs, no paraphernalia, no nothing to  
2 suggest he's involved in any drug activity in any way, shape or  
3 form, other than the \$25,000 cash, which I have already  
4 previously talked to you about.

5 The only tape that Mr. Bresnick referred to when it  
6 came to my client, was a tape in which he pointed as to some  
7 powerful tape. Now I remind you, this is a first assistant in  
8 this major drug operation, and the only tape Mr. Bresnick  
9 referred to in his opening, was a tape in which he's sitting  
10 there laughing, and you'll hear the tape. It's a tape dated  
11 May the 26th of 2005, in which -- the tape is where Dante  
12 Tucker, who, as I told you had been out of jail, the one that's  
13 staying at Essex, and that person failed the drug test, because  
14 he was on parole.

15 And he was laughing about it. This is his cousin. .  
16 He's heard on tape laughing about it, saying what he should  
17 have done to protect himself from not doing what he was doing,  
18 so he could pass that drug test. And that's all he says. And  
19 that's the tape that they point to, after five months of tapes,  
20 after a year investigation, laughing at his cousin failing a  
21 drug test is the one thing that Bresnick -- Mr. Bresnick  
22 announces to you as evidence that he's involved as a first  
23 assistant in a major drug operation.

24 Well you listen to those tapes and see if you,  
25 listening and working backwards, making the assumption that he



McMahon - Opening

Page 75

1 is, in fact, the first lieutenant, is in fact the major  
2 participant in a drug organization, and listen backwards, and  
3 see if that's the type of conversation that you would expect to  
4 hear from the second in command of a 25 million dollar drug  
5 operation.

6 I suggest to you that those tapes will not back that  
7 up. They will not present you with the quality or credibility  
8 of evidence that is necessary to convict any individual in this  
9 country today.

10 Take Down Records was real. He talks about it like  
11 it was a shell. This was a real operation. These were young  
12 men that were trying to do something in this operation of Take  
13 Down Records. They actually made CD's. They actually had  
14 rappers. This isn't just, they made this company up and then  
15 there was nothing going on.

16 No, it wasn't the biggest record company in America.  
17 It was some young men that were trying, they were moving  
18 forward, they were trying to do things that would advance them  
19 on. That was my client's goal, that was his dream. He got  
20 involved in that hip hop culture, and hip hop rapping, and hip  
21 hop movies. And he wanted to be a mover and shaker. He wanted  
22 to be a producer of individuals.

23 And that's what he was trying to do with himself  
24 during this period of time, and that's why you'll hear some of  
25 the tapes talking about that. In fact, the second one, Menace,

McMahon - Opening

Page 76

1 is a play or story that he actually participated in writing,  
2 because he was interested in getting in on that aspect of the  
3 movie business, of writing these movies.

4 So it was real. It's not some shell. It's not some  
5 bogus name, only where they just funnel money in. They made  
6 CD's, they had rappers. They made one film. They did  
7 distribute one film. They did have contracts. They did sell  
8 videos. They did sell CD's. So to sit there and tell you all  
9 that this is just some shell with no reality to it, that's just  
10 not fair, because it's not the facts of this case.

11 So, ladies and gentlemen, I think it's time, I'm not  
12 going to spend a whole lot of time talking to you, because I  
13 think it's important for the evidence to begin.

14 But in conclusion to you, I ask you to promise to me ...  
15 one thing, and Mr. Warren touched on it briefly, but I think  
16 it's really important. You have to promise to me that you will  
17 really keep an open mind when it comes to my client Timothy  
18 Baukman. That you won't have a knee jerk reaction. That you  
19 won't assume anything and make any conclusions until the end of  
20 this case.

21 Because to do so based on speeches, and to do so  
22 based on innuendo and guesswork and stereotypes, just wouldn't  
23 be fair. It just wouldn't be American to do that.

24 So I'm asking you to honestly do that for me, as best  
25 you can, within the constraints of human nature, and to do

Powell - Opening

Page 77

1 that. And I think, with the end of this case, the end of the  
2 case, when we've come back to talk to you on behalf of Mr.  
3 Baukman, I'll be able to say to you, that after a one year  
4 investigation, they've had no drug transactions, no drug sales,  
5 no wiretaps of any significance for a five-month investigation.

6 Only cooperating witnesses, nothing of any substance.  
7 And what I started my statement to you, nothing of quality and  
8 very little of credibility. And what you will find at that  
9 point in time, that your verdict should be at that time, not  
10 guilty, because it's not proven. Thank you.

11 THE COURT: Counsel.

12 MR. POWELL: Thank you, Judge. Please the Court.  
13 Counsel. Ladies and gentlemen of the jury. You know from the  
14 introductions that I represent Mr. James Morris, who is one of  
15 the defendants, in this trial, along with Mr. Ronald Thompson.

16 You've had a opportunity to listen to lawyers talking  
17 to you for about the last 3 or 4 hours. I'm sure you've had  
18 quite enough of it. So I'm going to try and be somewhat brief  
19 with you. But this is really not the kind of case where any  
20 lawyer who talks to you can really be short.

21 This is all very interesting here. It's actually all  
22 a little bit overwhelming. If you take a look in this  
23 courtroom, you see all of the great technology that the  
24 Government has developed. They've got really nice pictures.

25 They got a great graph, they got all sorts of folks



Powell - Opening

Page 78

1 who sit back here, and laptops, and make these nice things come  
2 up for you. You got the case agents, who sit here in the  
3 courtroom, they're handsome guys. Hair nicely cut. Neat,  
4 wearing their neckties. The kind of people that you look at  
5 and you say to yourself, these are folks who seem to know what  
6 they're doing.

7 These are guys who seem trustworthy. Mr. Bresnick  
8 had a opportunity to address you and he told you in his opening  
9 statement, because that's what this part of the proceeding is,  
10 what it is that the Government intends to prove to you during  
11 the course of this case. The Judge told you in his preliminary  
12 instruction that the verdict that you come to has to be based  
13 upon the evidence. That probably seems like it's fairly  
14 obvious.

15 But once you have a opportunity to hear the  
16 presentation by the Government, once you have an opportunity to  
17 hear from other lawyers in the case, that can get just a little  
18 bit murky.

19 Because as you could see, Mr. Bresnick is a pretty  
20 charismatic guy. All fire and brimstone. And he's matched by  
21 Mr. Warren, who seems to be up to the task of being equally  
22 fiery.

23 There's a courtroom full of guys who are sort of  
24 really big shot, sophisticated lawyers in this room. I  
25 remember growing up in Philadelphia. And as a kid, we used to

Powell - Opening

Page 79

1 watch the Channel 6 news. And you'd see those news stories  
2 about the trials at the Federal Courthouse, with all of the big  
3 shot criminal lawyers.

4 The guys like Bobby Simone and all of the other guys  
5 that you'd see, and read and hear about. And when you come  
6 into a courtroom like this, this is sort of the same  
7 environment, isn't it? I'm just a poor kid from the ghetto.  
8 I'm not a big shot lawyer like these fine gentlemen that you  
9 see sitting here at the counsel table.

10 So all of this technology that you see and the fine  
11 speeches that you hear from Mr. Bresnick and others, a lot of  
12 that stuff's a little bit, sort of over my head.

13 But there are some things that I do know. I do know  
14 that it doesn't matter how sophisticated the Government's  
15 technology may be, the Judge says that the verdict that you  
16 come to at the end of this case has to be based upon the  
17 evidence.

18 Well what's the evidence in this case? Mr. Warren's  
19 right, there isn't any yet, because you haven't heard a single  
20 word of testimony from a single witness. There hasn't been a  
21 single exhibit offered in this case. There hasn't been  
22 anything provided to you that you can take with you back to  
23 your deliberations to decide whether or not the Government has  
24 proven its case beyond a reasonable doubt against Mr. Morris in  
25 this case.

Powell - Opening

Page 80

1 But it doesn't say much to say that to you, because  
2 you'll get a opportunity to do all of those things. And during  
3 the next 7 or 8 weeks or so that you folks will be burdened  
4 with all of us, the Government will produce to you all of the  
5 things I'm sure that Mr. Bresnick said he would produce to you.

6 They will produce witnesses, folks like the case  
7 agents, and the investigators, and the experts that were  
8 involve din the development of this case.

9 All nice, clean, Government employees. All guys who  
10 get paid to come in and make their best effort to help these  
11 nice gentlemen at the counsel table here to prove their cases  
12 against these folks at the counsel table back here.

13 And in an effort to do all of those things, they're  
14 going to bring to bear all of that technology that Mr. Bresnick  
15 had a opportunity to tell you about. The surveillance, the  
16 guys who went out and actually eyeballed what was going on in  
17 the neighborhoods.

18 The wiretaps, those electronic interceptions where  
19 they listened to conversations between people that they claim  
20 are involved in a criminal enterprise. Thousands and thousands  
21 of pages of documents.

22 Tons of pictures. Lots of records. So-called  
23 cooperating witnesses. All people who will come in and who are  
24 designed to put together a package that you can take with you  
25 back to your deliberations and decide that the Government has



Powell - Opening

Page 81

1 proven beyond a reasonable doubt that the allegations contained  
2 in what Mr. Warren described as the catalog in this case.

3 All of those things are really very nice, and  
4 sometimes they're even helpful. But many times they're not.  
5 Sometimes, ladies and gentlemen, this technology just sort of  
6 overwhelms the truth. And lots of times it really isn't very  
7 difficult to cut through the pieces of paper and the pictures  
8 and the cooperating witnesses and the opinions of experts who  
9 work for the Government, to get to the truth in this case.

10 In this case, Mr. Bresnick told you that back on  
11 August 8th, 2005 police officers who had been involved in a  
12 year-long investigation fanned out into different areas of  
13 Pennsylvania and other states, and executed search warrants and  
14 made arrests.

15 And he's right, that is what they did. And on August  
16 8, 2005, among the places that the police came to was an  
17 address of 5 Burden Hill Drive, in Quinton, New Jersey. At 5  
18 Burden Hill Drive, Mr. Bresnick tells you that they found a  
19 bunch of money, that they found a car parked in the driveway  
20 and inside the car was half a kilo of cocaine.

21 And that they found some other things. And he says  
22 to you, in the course of his opening statement, that that stuff  
23 belonged to that guy there. That the money was the proceeds of  
24 criminal conduct. That it was his house, and his drugs, and  
25 his vehicle that those things were found in.

Powell - Opening

Page 82

1 Evidence is a funny thing, ladies and gentlemen.  
2 Sometimes it confirms the arguments that lawyers make to you at  
3 the outset, and other times it refutes it.

4 When you have a opportunity to hear the actual  
5 evidence in this case, you're going to find that this guy  
6 didn't live at 5 Burden Hill Drive in Quinton, New Jersey, and  
7 the Government knows it. They know who owned the house at 5  
8 Burden Hill Drive.

9 There was a truck in the driveway at 5 Burden Hill  
10 Drive that had half a kilo of cocaine, and Mr. Bresnick tells  
11 you. They also know that that guy wasn't the owner of the  
12 truck.

13 Now if they found \$500,000 in this house, does that  
14 mean that whoever owned, occupied, had contact with this house  
15 has committed a crime?

16 Only if having a lot of money's a crime. Having a  
17 lot of money is no more a crime than being poor. Where you get  
18 your money from may get you into trouble, depending on where it  
19 comes from. But the Government has to show that it came from  
20 something unlawful.

21 Now this is one of those kinds of cases, as you've  
22 heard from the other lawyers, where the Government's not going  
23 to place a great deal of reliance on direct evidence.

24 It's not because they don't want to, but because they  
25 don't have it. If there was actual evidence that the money

Powell - Opening

Page 83

1 found at 5 Burden Hill Drive was drug money, if there was  
2 direct testimony that could be offered to show that, the  
3 Government would give it to you. But they won't in this case,  
4 because it doesn't exist.

5 If there was direct evidence that the half kilo of  
6 cocaine found in the Suburban parked in the driveway was  
7 cocaine that was possessed or held by that guy, the Government  
8 would give it to you, because they'd want you to have it so  
9 that you could convict him beyond a reasonable doubt.

10 But they won't, because it doesn't exist in this  
11 case. And what you'll find in this case, ladies and gentlemen,  
12 is that a great deal of the Government's case is just the  
13 Government's wish list. It's the Government's speculations  
14 about people who are involved in things that the Government  
15 speculates that they were involved in.

16 Now it's a pretty tough proposition when you ask 12  
17 people to convict someone beyond a reasonable doubt of a  
18 criminal offense based on speculation. Because the Judge will  
19 tell you, in the course of his instruction to you, that one of  
20 the things that you cannot do in this case, is you cannot  
21 speculate. That doesn't mean that you can't draw a reasonable  
22 inference. And what the Government will suggest to you is,  
23 that, ladies and gentlemen, based on the evidence that we've  
24 already produced to you, you can draw the reasonable inference  
25 that this person is guilty of the offense with which he's



Powell - Opening

Page 84

1 charged.

2 Well there's a difference between a speculation and a  
3 reasonable inference. But these guys are no slouches. They do  
4 this as a business. And there is the business of prosecuting  
5 folks and trying to get convictions.

6 So that they understand that, in those places where  
7 they have no evidence, that they've got to fill in the blanks  
8 for you. And they will. They'll do it in the form of  
9 testimony, like expert testimony.

10 For instance, if they're talking about a conversation  
11 with two people talking about something that seems to be  
12 totally innocuous, well, you won't be able to conclude beyond a  
13 reasonable doubt from that that those people are talking about  
14 drugs, and that they're involved in a conspiracy. So the  
15 Government will fill in the blanks for you.

16 They'll bring in their expert, and their expert will  
17 tell you, this is what these guys are talking about. When they  
18 say shoes, when they say cars, when they say dogs, they're  
19 talking about drugs.

20 But then you have to buy what the Government is  
21 selling, in order to get to the conclusion that the Government  
22 wants you to reach.

23 Oftentimes, in these kind of cases, cases where  
24 there's a lot of evidence, cases where there's a lot of  
25 documents, cases where there are lots of expert witnesses,

Powell - Opening

Page 85

1 cases where the evidence in the case against defendants is  
2 sometimes only circumstantial evidence, the technology doesn't  
3 help.

4 And the exhibits don't help. Because what they do,  
5 ladies and gentlemen, is they become a smoke screen. They  
6 divert your attention from the real evidence in the case,  
7 because you can really get overwhelmed by the technology.

8 When you go back to your deliberations, if you have  
9 to take 5,000 pages of paper with you to go through, are you  
10 really going to be able to sift through all of that stuff and  
11 discern where the truth lies? Maybe. But you may not need to.  
12 Because if you listen carefully to the testimony that you hear  
13 in this case, if you critically evaluate the testimony that you  
14 hear from witnesses in this case, the smoke screens may not  
15 work.

16 And where the Government wants you to guess about  
17 things, you may be able to conclude that it's inappropriate to  
18 speculate, it's inappropriate to guess, it's more appropriate  
19 to follow the Court's instruction and base our verdict only  
20 upon the evidence.

21 Because if you consider only the evidence in this  
22 case, you will not be able to find beyond a reasonable doubt  
23 that James Morris is guilty of the things of which he's charged  
24 in this indictment.

25 The Government charged him with being involved in a

Powell - Opening

Page 86

1 drug conspiracy. And as Mr. Bresnick pointed at Mr. Morris, he  
2 said, he's a part of this conspiracy, because there was a bunch  
3 of money found, and he had conversations with somebody else in  
4 this case about drugs.

5 Not one single word in a single one of the tape  
6 transmissions that you'll hear, is a conversation about drugs.  
7 But what you will hear is the Government's expert tell you that  
8 what you should conclude is what we tell you to conclude, that  
9 it's drug conversation.

10 There's conversations about buying dogs. There's  
11 conversations about some other innocuous things. They'll tell  
12 you that those are conversations between James Morris and Alton  
13 Coles. But when they do that, when they go back and they put  
14 their expert on who talks to you about pen registers and talks  
15 to you about intercepting telephone calls and the numbers that  
16 these calls come from and go to, you won't find that a single  
17 one of the phones that they talk about are phones which were  
18 owned or registered to James Morris.

19 These documents that I have in my hands are the sum  
20 of the transcripts of the telephone conversations that the  
21 Government intends to rely upon. Of all of the thousands of  
22 pages of documents that you will see and be exposed to in this  
23 case, these few thin pages constitute the conversations that  
24 they say should be sufficient for you to decide beyond a  
25 reasonable doubt that this man is guilty of the offenses with



Powell - Opening

Page 87

1 which he's charged.

2 I suggest to you that they will come up deficient, or  
3 come up short. There won't be enough. So when there really  
4 wasn't enough in this case to make a credible case for the fact  
5 that Mr. Morris was involved in a drug conspiracy, the  
6 Government charged him with other crimes. Because they didn't  
7 want him to get away with anything, they charged him with other  
8 serious stuff.

9 They charged him with making telephone calls. And  
10 they said that his telephone calls were telephone calls about  
11 illegal stuff. That's the best the Government could come up  
12 with, with respect to James Morris. You remember Mr. Bresnick  
13 said that the wire was up from May until August of 2005, but  
14 that this investigation was an ongoing investigation for at  
15 least a year.

16 And when you have a opportunity to hear the testimony  
17 in this case from the special agents and other people involved  
18 in this case, you will learn that the investigation went on  
19 even longer than that. That it had its inception even earlier  
20 than one year.

21 Mr. Bresnick says that this was a conspiracy which  
22 was going on for about seven years. Do you remember 1,200  
23 kilos of cocaine, 600 kilos of crack cocaine, 7 years, zillions  
24 of dollars of money exchanging hands. All of those things that  
25 he told you about. Now the Government could only know these

Powell - Opening

Page 88

1 things, it seems, based upon the investigation that they  
2 conducted. Where in all of those years of careful scrutiny and  
3 surveillance and interception of telephone conversations, does  
4 Mr. Morris fit in?

5 I'll tell you where. In the last four weeks of the  
6 conversations that are being listened to, the Government first  
7 claims that Mr. Morris is talking to anybody who's involved in  
8 this case.

9 Now if you're a big shot supplier of drugs, if you're  
10 a big shot supplier of narcotics to the kingpin of a huge drug  
11 cartel, wouldn't you show up a little sooner? I mean, how's  
12 the cartel get its product to market, if you're not providing  
13 it?

14 And if the representation from the Government is that  
15 the first time that your name appears anywhere on anyone's  
16 conversation, the first time any allegation arises that you had  
17 any involvement with anyone who's later charged in the case, is  
18 just four or five weeks before the wiretap goes down and the  
19 arrests are made on August 10th, 2005, doesn't that mean that  
20 all of those 1,200 kilos of cocaine and 600 kilos of crack  
21 cocaine couldn't possibly have had anything to do with you?  
22 Wouldn't they all have predated your existence?

23 It seems like they would have. And if that's the  
24 case, then why is this guy sitting here? I'll tell you why  
25 this guy is sitting here. Because the Government found a lot

Powell - Opening

Page 89

1 of money at 5 Burden Hill Drive in Quinton, New Jersey. And  
2 because the Government thinks that, if they find an awful lot  
3 of money, that that means that somebody's doing something that  
4 they shouldn't be doing.

5 Now if that rule were true, there's lots of people  
6 who would get arrested on a daily basis. But we all know that  
7 the mere possession of currency isn't an indication that you're  
8 involved in criminality.

9 And, who knows, as you have a opportunity to hear the  
10 evidence unfold in this case, you may actually hear an  
11 explanation as to where that currency comes from, that belies  
12 the representations that have been made to you by the  
13 Government about the source of the money.

14 Now the Government is really good at producing all  
15 sorts of technical evidence of criminality. And, as I've said,  
16 you'll get to see on these very fine monitors all of the  
17 documents and records and other things that they will produce,  
18 to show you that they believe people are involved in  
19 criminality.

20 Now the Government has the ability to do other  
21 things, too. For instance, the FBI has one of the finest  
22 forensic laboratories in the world. They can discern all sorts  
23 of things from carpet fibers, and from blood samples, and from  
24 swatches of clothing, and from DNA, and from all of those kinds  
25 of very sophisticated things.



Powell - Opening

Page 90

1           So you would probably imagine that if they dug up  
2     \$500,000 and they thought it was the proceeds of drug activity,  
3     that they would probably forensically test the money to find  
4     out if there was some indication that there was residue of  
5     narcotics or something else on the currency.

6           Maybe the Government will produce something like that  
7     during the course of this trial to help you come to the  
8     conclusion that this money was something that's illegal.  
9     Because, quite frankly, that's the only thing in this case that  
10    seems to suggest that Mr. Morris should be here with you.

11          Oh, and the Government says that there was also a gun  
12    at 5 Burden Hill Drive. And they say that Mr. Morris possessed  
13    the gun at 5 Burden Hill Drive. Not one single witness will  
14    appear in this case to testify to you that he possessed any  
15    weapon.

16          What you will find out in the course of this trial,  
17    because Mr. Bresnick has already told you, is that the gun was  
18    legally owned by one of the people who occupied that residence.  
19    Now I find it interesting that Mr. Bresnick says, well, even if  
20    you own a gun legally, you could use it for unlawful purposes.  
21    Well that seems to be sort of axiomatic. Of course that's  
22    true. But if you just have it in your house, after you've gone  
23    through the process that the state law requires, that is,  
24    you've made an application, you're character has been  
25    investigated, it's been determined that it's appropriate to

Powell - Opening

Page 91

1 give you a permit to possess and/or carry a firearm, and you go  
2 out and get yourself one, that shouldn't be held against you,  
3 should it?

4 I think there's something in the Constitution that  
5 says something about the right to keep and bear arms. And if  
6 you're a single mother who lives at home and you've purchased a  
7 weapon to protect your home and your children in case there's  
8 an intruder, does it make any sense that you would have a gun  
9 that doesn't have any bullets in it?

10 Because when the intruder breaks in to rape you and  
11 to kill your kids, what are you going to do? Hold up your  
12 empty gun and say, back up, guy. Of course not. You might as  
13 well hold up a picture of a gun.

14 So folks who do thing that are lawful, folks who  
15 comply with the requirements of state and municipal authorities  
16 to acquire something like a firearm legally, shouldn't be  
17 called to task by the Government, because the Government's  
18 involved in the business of prosecuting people.

19 You've heard a great deal about businesses. Not only  
20 are Exxon, and Mobil, and drug cartels businesses, but the  
21 Government's a business, as well. And the Government has a  
22 hierarchy. And the Government produces different kinds of  
23 products. Sometimes the product that the Government produces  
24 is prosecution. And, in this case, this group of folks here,  
25 are the people who are the company which produces prosecution.

Powell - Opening

Page 92

1           They sell it. They mine it, they sell it, they  
2           present it to folks like you, and they hope to develop from it  
3           something called convictions. And they're entitled to  
4           convictions. When they present you with proof beyond a  
5           reasonable doubt that folks have actually committed a crime.  
6           But where they're not entitled to convictions are cases in  
7           which they ask you to speculate -- cases in which they ask you  
8           to fill in the blanks. Cases in which they don't offer you  
9           credible evidence that people have been involved in  
10          criminality.

11           But where they put people in a courtroom in bunches  
12          that hope that if they sling enough mud that it will stick to  
13          everybody who just happens to be sitting there.

14           The Government doesn't expect you to be discerning  
15          enough to go through the evidence in this case and find out  
16          where the truth lies. I count on it. My client counts on it.  
17          We count on you folks to be discerning, to listen to the  
18          testimony, not to simply buy what the Government is selling,  
19          because you don't have to.

20           The Government manufactures cheese, but if you don't  
21          want Government cheese, you don't have to buy it. You can go  
22          to the supermarket and get your own stuff.

23           You need to do the same thing in this case, ladies  
24          and gentlemen, as jurors. You have to be discerning. And it's  
25          an intimidating process. When you see the numbers of



Powell - Opening

Page 93

1 documents, when you see the list of witnesses. When you see  
2 the 127 pages of the exhibit list, that's just the list, ladies  
3 and gentlemen, that tells you how many exhibits will be  
4 produced in this case.

5 It is intimidating as can be. When you spend 8 weeks  
6 with lawyers, producing witness after witness and document  
7 after document, and person after person, and record after  
8 record, it's intimidating. The Government knows that.

9 The Government knows that you can't go through 10,000  
10 pages of documents. They count on you, ladies and gentlemen,  
11 not to be discerning. They count on you to do the easy thing.  
12 They count on you to take the path of least resistance, and  
13 simply say, it would be a lot of work to figure out whether or  
14 not the Government's really proven its case beyond a reasonable  
15 doubt here. It would be a whole lot simpler just to convict  
16 this guy and the others, and let's go home.

17 You won't do it. I know you won't do it. I know  
18 that you folks will listen carefully to the testimony in this  
19 case. I know that you will evaluate critically the evidence  
20 that's submitted to you, and I know that when you've had a  
21 opportunity to do that, you will not be satisfied that the  
22 Government has proven beyond a reasonable doubt that James  
23 Morris is guilty of the offenses with which he's charged.  
24 Thank you.

25 THE COURT: Mr. Harmelin.

Harmlin - Opening

Page 94

1 MR. HARMLIN: Court's permission. Good afternoon,  
2 ladies and gentlemen. This is the first time we've met. My  
3 name is Larry Harmlin, I'm a lawyer from Westchester. And I  
4 represent Monique Pullins over there, in the black blouse.

5 Monique Pullins is here because she had the  
6 misfortune of falling in love with Alton Coles. And I'm sure  
7 nobody here has ever fallen in love with anybody and had it go  
8 bad, or have something come up later on that you didn't know  
9 originally.

10 This is Monique Pullins, and she is here presumed  
11 innocent, just like everybody else over here. In an opening  
12 statement, what we're to do is to provide a roadmap of where  
13 the case is going. As much as I might like to get in the face  
14 of Mr. Bresnick and stick my finger where he stuck his in  
15 Monique's face, I'm not going to do that.

16 That's showmanship. That's evidence of absolutely  
17 nothing. It's something a prosecutor can get away with.  
18 You'll find out whether he can keep his promises as the trial  
19 unfolds. I suggest to you that he won't keep his promises.

20 Interesting that the chart over there has Ms. Pullins  
21 right up here at the top of the hit parade. If you landed from  
22 Mars, you might think that she's third in command of this  
23 organization.

24 That's not what you're going to find. What you're  
25 going to find out is, that she's somebody that fell in love

Harmlin - Opening

Page 95

1 with the wrong person. She's somebody that believed what Mr.  
2 Coles asked her to do. She's somebody that believed that he  
3 loved her. She loved him. She believed in his love for her.

4 She's here because she wouldn't do what the rats and  
5 muskrats, or whatever animals they are, over at the Detention  
6 Center did do.

7 Having been offered the opportunity to make up some  
8 stories about Mr. Coles, she said, I don't know anything, I'm  
9 not going to lie. I don't care if I'm facing years, and years,  
10 and years in jail. You'll find out what these people are  
11 facing, because you're going to hear it from the skunks at the  
12 Detention Center.

13 But this is America. You are presumed innocent, you  
14 have a right to your day in Court. And that's exactly what  
15 we're doing here. Any of you sitting there with people for 8  
16 weeks, are you responsible for what the person next to you  
17 does? I suggest to you that Mr. Warren was right on the money.  
18 No. Absolutely not.

19 Monique is presumed to be innocent as she sits here,  
20 and she's going to be innocent, unless and until at the end of  
21 8 weeks, you decide the Government has sustained their burden.  
22 I suggest to you that they won't.

23 She's presumed innocent. Monique has no burden to do  
24 anything. I'm sorry, she has the burden to do something, to  
25 show up everyday. That's all she has the burden to do.



Harmlin - Opening

Page 96

1           Nothing else. Additionally, she doesn't have to  
2 testify. She, just like any of you, has a Fifth Amendment  
3 right to remain silent. If she exercises that right to remain  
4 silent, these people can't get up and point their finger again  
5 in 8 weeks and ask her why she didn't testify.

6           That would cause a problem for the prosecution. So  
7 she's presumed innocent, she doesn't have to testify, and the  
8 Government and only the Government has the burden of proof. We  
9 have no burden. If anybody here can't live with those  
10 propositions of the law, kindly raise your hand, and that's why  
11 we have alternates.

12           But my suggestion to you is, and my belief is, that  
13 no one would be here unless you already told His Honor in jury  
14 selection, you're okay with the presumption of innocence.  
15 You're okay with somebody not having to testify in their own  
16 behalf. And you're okay with the Government, not somebody  
17 charged, having the burden of proof.

18           That's why it's so important to keep an open mind.  
19 You're going to hear mountains and mountains of testimony. And  
20 you're going to see documents, all kinds of evidence, over 8  
21 weeks. Well if you don't keep an open mind, you might as well  
22 mail in the verdict today.

23           Because they get to go first. We have to sit here  
24 and listen to all of it. We're not allowed to interrupt in the  
25 middle of a bad day and say, oh, excuse me can we put our

Harmlin - Opening

Page 97

1 client on the stand now? We're not allowed to do that. We  
2 have to wait until the end of the case.

3 We can't call witnesses, until they're done with  
4 their case. So what are we going to prove, and how are we  
5 going to prove it? We're going to prove that she's not guilty  
6 of this. We're going to prove that, at the onset of this  
7 conspiracy in 1998, Monique Pullins was a 14-year-old school  
8 girl.

9 Do you really think that she was involved in a drug  
10 conspiracy at that time? Well they don't have any evidence of  
11 that. They have absolutely no evidence of that. But she was  
12 his girlfriend, so she's go to be dirty, she's got to be guilty  
13 of something.

14 She's probably running a stash house. No. You can  
15 tell, one indication of how weak the case against Monique  
16 Pullins is, that the fire-breather over here, was in her face  
17 in the first minute of the opening statement.

18 When the trial's over, I suggest to you you're going  
19 to know one thing beyond all doubt, that she is not the second  
20 most culpable person in the courtroom. It's a joke that he  
21 would do that. The reason he did it is, he knows he's got  
22 virtually no evidence. And if he doesn't say something about  
23 her before the seventh week, you might say, what the heck is  
24 she doing there. So that's why he's doing that, and that's why  
25 he's over the top.

Harmlin - Opening

Page 98

1           What we're going to prove is that she's a high school  
2 graduate. She graduated from Gratz High School in 2001. And  
3 she's had a job ever since she graduated.

4           She was making \$30 an hour working on the railroad,  
5 for over 2 years at the time she got arrested. Now why does  
6 she need to be working for him? Now there's the wires. It's  
7 my understanding, from the little crib sheet that I had a  
8 chance to look at that, they recorded twenty something thousand  
9 phone calls in 3 months.

10           I did the math, and that works out to 286 calls a  
11 day. 286 calls a day. If she was helping him with the drug  
12 conspiracy, do you think there might be more than a few phone  
13 calls? I suggest to you, commonsense tells you, that if he's  
14 making 25,000 calls in a 3 month period of time, and she's in a  
15 drug conspiracy, you're hear hundreds of phone calls to her.

16           But you're going to hear the phone calls, and you're  
17 going to hear his tone of voice, and you're going to hear the  
18 way he talked to her. What we're going to prove is, that she  
19 was 21 when she waltzed into a club after coming from another  
20 club, and saw him. She met him that night.

21           They became fast lovers. And they were intimate with  
22 each other for four or five months. That's it. Four or five  
23 months. He stayed at her house three, four, five nights a  
24 week.

25           But did anybody here ever meet a person -- well, I'll



Harmlin - Opening

Page 99

1 just say a person that they were interested in romantically and  
2 find out a day, a week, a month, a year later, well what do you  
3 know, the person didn't tell me everything about themselves.

4 What a shock. Well would that be so shocking that a  
5 thirty-something year old guy, meeting a pretty 21-year-old  
6 girl, wouldn't tell her everything about his life?

7 What he showed her was he had a Bentley. He had a  
8 Mercedes. He had shows that he put on at clubs. He had a  
9 record studio. He had a hip hop promotion company.

10 She had stars in her eyes. He had bling, he had  
11 wealth, and they were physically and emotionally attracted to  
12 each other.

13 Does falling in love with the wrong person make you a  
14 criminal? I suggest to you that it does not. I further  
15 suggest to you that Monique Pullins is not responsible for the  
16 sins of other people. Sins of someone else in the case, don't  
17 automatically become the sins of Monique Pullins.

18 The only evidence in the case really is a bunch of  
19 ambiguous phone calls. Stash house. Okay, well, what would  
20 you expect to hear from the August 10th raid that made itself  
21 into the first minute of Mr. Bresnick's opening statement?

22 He's over there pointing in her face, yelling and  
23 screaming. What did he tell you about the stash house? Oh,  
24 the cocaine they found there on August 10th. No. They found  
25 no cocaine. Nothing. The kilo wrappers they found there. No,

Harmlin - Opening

Page 100

1 they didn't find any kilo wrappers, they didn't. So what kind  
2 of stash house is that?

3 A stash house, if you listen to him, is a place where  
4 they store drugs.

5 Well what is she, Nostradamus? She knew that the  
6 search was coming on August 10th, so she cleared out the stash  
7 house? That's preposterous. It's idiotic to suggest that. If  
8 that was a stash house, they would have found dope there. They  
9 didn't find any dope at all. This was not a stash house, there  
10 was no crack, there was no cocaine. It was just not what they  
11 claim it was.

12 And that's why I suggest to you they can't sustain  
13 their burden. They can't prove everything they say. So how  
14 are we going to raise a reasonable doubt? We're going to raise  
15 the reasonable doubt by cross-examination of the witnesses.

16 We're going to raise a reasonable doubt by calling  
17 character witnesses on her behalf. In Federal Court, you're  
18 allowed to call witnesses that can testify to the good  
19 character of somebody for being a law abiding citizen.

20 Monique Pullins has never been in trouble with the  
21 law in her life. Good character and good character evidence  
22 alone is enough to raise a reasonable doubt. And I suggest to  
23 you, you will hear good character testimony from Monique  
24 Pullins' witnesses.

25 We will raise a reasonable doubt, because the

Harmlin - Opening

Page 101

1 Government cannot prove that she's involved in selling drugs.  
2 There's not a single witness that's going to come in here and  
3 say Monique sold him drugs.

4 There's not a single witness who's going to say there  
5 were drugs in her house on August 10th, 2005. There's no  
6 evidence that, when she got rid of the gun, at Mr. Coles  
7 suggestion, that she knew it had anything at all to do with  
8 drugs.

9 She is not charged with possessing a firearm without  
10 a license. It's very important to understand that, because  
11 there is a charge in Pennsylvania called, possession of a  
12 firearm without a license.

13 It's very simple to prove. You got to prove the  
14 person had a gun in their possession, and they didn't have a  
15 license. Well this is a far different crime. This is  
16 possessing of a gun that's been used in a drug conspiracy to  
17 further the aims of the drug conspiracy.

18 There isn't going to be any evidence for that. And  
19 that's why that charge is unprovable. There's no physical  
20 evidence. There's no fingerprints of Monique Pullins, for  
21 example, on the digital scale. They aren't even going to be  
22 able to prove she even knew it was there. He's there three,  
23 four nights a week, we don't know what he might bring there or  
24 he might leave there.

25 But physical evidence is fingerprint evidence. If



Smith - Opening

Page 102

1 she touched the digital scale, weighing up dope, her  
2 fingerprints would be all over it. And shame on them, if they  
3 didn't test the digital scale for fingerprints.

4 They're the ones with the burden of proof. Not the  
5 defendant. So there's no physical evidence, there's no witness  
6 that's going to say Monique sold them drugs.

7 There's no evidence that there was drugs in the house  
8 on August 10th when they searched the place. Falling in love  
9 with the wrong person, doesn't make you a bad person.

10 MR. SMITH: Thank you, Your Honor. May I approach?

11 THE COURT: Yes, indeed.

12 MR. SMITH: Ladies and gentlemen of the jury, good  
13 afternoon. You may have forgotten by now, it's so late in the  
14 day, my name is Ronald Smith, and I represent Asya Richardson.

15 Asya can you stand up for a second, please? Take a  
16 good close look at her. Because during the next weeks and  
17 months you're going to hear very little about her, you're going  
18 to see very little about her in this case.

19 That's why I want you to take a good look at her  
20 right now. It's customary, at this point in time, for defense  
21 counsel to say a few words about his case. It's late in the  
22 day, I'm not going to belabor it. You've already heard the  
23 fine arguments by my colleagues here.

24 Just let me go over a few things here, let me point  
25 out a few things which you may have forgotten already, which

Smith - Opening

Page 103

1 the Judge pointed out earlier this morning and early this  
2 afternoon. Remember, there are certain guideposts, guideposts  
3 that you have to remember when you're watching a case.  
4 Guideposts such as, remember, that it's not the questions that  
5 we ask, it's not the showmanship that we go through, it's the  
6 evidence that comes out of the witness's mouths that testify  
7 from the witness stand right there. That's the evidence.

8 Not the questions, not the showmanship, not the  
9 histrionics. Listen to the words that the witnesses give you  
10 during the course of this case.

11 Because it's from that evidence, from the witnesses'  
12 testimony that's either going to acquit or convict my client.  
13 And, remember, when you listen to these words, when you listen  
14 to these words, there's certain other things you have to  
15 remember. That we do not have the burden of proof here.

16 These gentlemen over here, they have the burden of  
17 proof. Well, burden of proof of what? They have the burden of  
18 proof of proving my client, my client, Asya Richardson here,  
19 guilty of all elements, of all the crimes charged against her.  
20 So remember that. That's very, very important. We can sit  
21 here and do nothing.

22 Our only task is under the Constitution, is to tell  
23 the United States Government, prove your case against us. And  
24 as she sits here, and she listens to the evidence and you  
25 listen to the evidence, remember here, and this is very, very

Smith - Opening

Page 104

1 important, but sometimes we forget about this. That my client  
2 sits here cloaked with the presumption of innocence. Now what  
3 does that mean? Is that something she's wearing on top of her,  
4 on top of her blouse? No, it's an invisible cloak. It's a  
5 cloak of presumption of innocence.

6 And you have to remember, this cloak remains about  
7 her throughout the entire case for the next few weeks, the next  
8 few months. This cloak remains until you hear our final  
9 argument, the Judge gives you his instructions, you go back in  
10 the room and you deliberate.

11 And it's up to the United States Government to remove  
12 this cloak. And they have to remove it, the burden of proof  
13 beyond a reasonable doubt. I'm sure you're going to hear those  
14 words ad nauseam. Now and perhaps at the end of the case.

15 You will determine, when you sift through this  
16 evidence and you wait to see have they proven all elements of  
17 the charges of the crime against my client beyond that  
18 reasonable doubt. And I will submit to you at the end of this  
19 case, they will have not.

20 Now you're looking up at this picture here, of this  
21 organizational chart here. Which is important here. Because  
22 as I said, you came in here, as my colleagues said, if you just  
23 landed from Mars, you would think that Mr. Coles is the  
24 general. The two gentlemen to his left and right are the  
25 colonels. And my client that's smiling there in her, I guess,



Smith - Opening

Page 105

1 what the Government would tell you is a mug shot, she's at  
2 least a major in this organization, and in charge of all these  
3 little -- these characters below here. And there she is in her  
4 mug shot. Well the mug shot, I would submit to you, that looks  
5 an awful lot like the driver's license here -- photo here, with  
6 the blue background here.

7 So it's not a mug shot. All it is, is a driver's  
8 license photo. So I would submit to you, as you look at this  
9 organizational chart, don't get caught up in the trap, and say,  
10 well, it was a mug shot and all that. All it is a picture of  
11 what they purport to show that my client, at least -- that  
12 she's one of the higher ups in this organization.

13 Once again, they've made certain promises to you.  
14 Determine whether or not they have kept their promises to you.  
15 Now I'm going to ask you for a promise, too. As my colleague  
16 pointed out to you. A promise that, I want you to as you  
17 listen to the evidence during the next month or so, the promise  
18 I want from you is to pay close attention to it, and do not  
19 leave your commonsense outside of this courtroom when you  
20 listen to this evidence.

21 You're not robots here, you're human beings. Listen  
22 to this evidence, listen to it with the commonsense that you  
23 didn't check in at the door when you came through that door  
24 there. Listen to this evidence and determine whether or not  
25 they have removed the cloak of presumption of innocence against

Hetznecker - Opening

Page 106

1 my client. Now the promise I will give to you -- I'm going to  
2 give you two promises. One, that my final speech to you at the  
3 end of this case is going to be a little bit longer than it is  
4 today, because it is late in the day, I'll make that one  
5 promise to you.

6 And the second promise I'm going to make to you is,  
7 even though my client sits here and doesn't have to do a darn  
8 thing and say, Government, prove the case against me, the  
9 promise I'm going to make to you and I'm telling them right  
10 now, she will get up there and testify. She will get up there  
11 and testify and tell you exactly what the relationship was with  
12 Alton Coles, and what responsibility and involvement she had,  
13 if any, with the charges.

14 Now, remember, when you look at all this evidence and  
15 you look at the end of this case, you're going to come up to a  
16 determination that, what this is against my client, my client  
17 there, with the mug shot from her driver's photo, is nothing  
18 but prosecutorial overreaching. And I would respectfully  
19 submit to you, at the end of this case, you will come back and  
20 give a verdict of not guilty against my client.

21 Thank you for your time.

22 THE COURT: Mr. Hetznecker.

23 MR. HETZNECKER: Thank you. Ms. Thompson, gentlemen.  
24 I have the unenviable task of going last. Last man standing.  
25 And it's late in the day, and I hope that you don't hold it

Hetznecker - Opening

Page 107

1 against me, but I'm going to talk for a few minutes. Because I  
2 think it's very important that you listen to what I have to say  
3 on behalf of Thais Thompson.

4 I also what to thank you. A lot of what my  
5 colleagues have said, I may repeat. Don't hold that against  
6 me. As the Judge will instruct you at the end of this case,  
7 you are to consider the evidence against each and every  
8 individual separately, and apart, and distinctly. So when you  
9 evaluate the evidence that the Government puts on against Thais  
10 Thompson, hold them to their burden. The burden that  
11 everyone's talked about in detail. But I will mention, and I  
12 will talk about it in a moment.

13 I, too, want to thank you. I know it's going to be a  
14 long and arduous journey for all of us. But we thank you for  
15 your commitment in this case. Your oath, your obvious decision  
16 to be open-minded in this case. To not avoid your duty, but to  
17 sit here and listen to the evidence in this very important  
18 case.

19 And I know I say that on behalf of everybody here.  
20 And I want to say that, as well. I know Mr. McMahon said it,  
21 but I want to say it, as well. Because I think sitting as a  
22 juror is probably the most significant and compelling role you  
23 can have as a citizen. It's more important than voting.

24 Because you collectively will decide my client's  
25 future. You collectively will decide the evidence in this



Hetznecker - Opening

Page 108

1 case. You will determine whether or not the law, as His Honor,  
2 Judge Surrick, gives you as applied to the facts is the truth.

3 Now what is evidence? Evidence is what you hear from  
4 the witness stand and what you believe. And if you believe  
5 that the Government overreaches, as other counsel has  
6 mentioned, to an extent that they would charge someone who was  
7 not involved in any drug conspiracy, not involved in any drug  
8 activity, charge someone in an effort to squeeze them, then  
9 your belief will be affirmed, if you believe that. If you  
10 don't, it will be shattered.

11 Let's look at this hierarchy of an organization that  
12 the Government puts up there. And it's been mentioned before,  
13 but it's interesting that it's been sitting here throughout the  
14 day.

15 Hour after hour. And in an attempt, I think the  
16 Government wants to crystalize in your minds, the idea that  
17 this is a structure. This is a hierarchy. That Thais Thompson  
18 isn't anything other than the girlfriend, the paramour, the  
19 mother of James Morris' three children. Because that's what  
20 she is.

21 Mr. Bresnick didn't tell you that. He also didn't  
22 tell you that she's a licensed nurse. That the home on Burden  
23 Hill Road is her mother's and purchased by her mother.

24 That she cares for those three children and that  
25 James Morris is back and forth at that place over the years.

Hetznecker - Opening

Page 109

1 He didn't tell you any of that. What he told you is,  
2 from the very beginning, he mentioned that there was a firearm,  
3 in an effort to scare you, in an effort to intimidate you, in  
4 an effort to focus -- have you focus on things that are not  
5 relevant to the truth. That a firearm found in her purse  
6 upstairs, which she admits is her's, and which, by the way, she  
7 had a permit issued in 2000 for. Because she is a single  
8 mother, as Mr. Powell said. She was living alone from  
9 time-to-time and caring for those 3 children, 8, 7 and 17  
10 months. So she had a firearm and she admitted that.

11 But there's no evidence that the Government will  
12 present to establish that she's involved in a drug stash house.  
13 That that location at 5 North Burden Hill Road is anything  
14 other than her home, purchased by her parents, for her and her  
15 children.

16 That's the truth. My name is Paul Hetznecker, you're  
17 not going to hear much from me throughout this trial, because,  
18 as other counsel has said, there's going to be very little  
19 evidence against Thais Thompson.

20 And I hope that my silence speaks volumes, as you sit  
21 here and listen to the evidence in this case. Because the  
22 evidence will not be that she was involved in drug trafficking,  
23 that she conspired to do any of that. In fact, they don't  
24 charge her with that. Here's what they do.

25 They call her to a Grand Jury and they want to ask

Hetznecker - Opening

Page 110

1 her questions, and they do ask her questions. And I want you  
2 to look very carefully at the language that's used in the  
3 Government's indictment to allege that she perjured herself.

4 Now you heard His Honor give you very specific  
5 instructions about what perjury is. A false statement that's  
6 material under oath. And you look at Mr. Bresnick's questions  
7 of her during the course of the Grand Jury testimony.

8 They brought her there to squeeze her. Because they  
9 believed she knew something about James Morris she didn't know.  
10 And when she told them she didn't know, they weren't satisfied  
11 with that. August 10th, 2005, there's a search warrant  
12 executed. \$560,000 is found in the home. She admits to having  
13 the gun. It's my gun, I have a permit.

14 Do they arrest her? They find drugs in a car  
15 outside. Do they charge her? No. Do they have any  
16 surveillance on her, any belief that she's involved in  
17 anything? In fact, you'll hear the agent say, because I'll  
18 cross-examine the agent, they question her, no they had no  
19 information that she was involved in any criminal activity.

20 None. None. So why does she sit here today? You  
21 heard co-counsel talk about the mechanism that the Government  
22 uses. I want you to look very carefully at the way this  
23 prosecution was structured. They don't charge her on August  
24 11th, they don't charge her on August the 12th. They don't  
25 charge her on August 15th, or September, or October, or



Hetznecker - Opening

Page 111

1 November, or December.

2 They call her to a Grand Jury, and they try to  
3 squeeze her. And when they're not happy with what she says,  
4 they call it a lie. And they charge her with perjury. Not  
5 with operating a stash house. Not with possessing a gun in  
6 furtherance of a drug trafficking offense. No. They don't  
7 charge her with those. They charge her with perjury.

8 Because the mechanism that the Government uses in  
9 prosecuting this case is to squeeze, as they had done with  
10 those cooperators that are facing life in jail.

11 But she can't tell them what they want her to tell  
12 them, because she doesn't know. She tells them where the money  
13 came from. They're not happy about it. So what do they do?  
14 They subpoena her family to the Grand Jury. And they call them  
15 to the Grand Jury. Are they charged with perjury? No.

16 Who's charged with perjury? James Morris's  
17 girlfriend. Long time girlfriend, mother of his children.  
18 Charged with perjury. Not with stash house, not with accessory  
19 after the fact. Not with possession of a weapon in a drug  
20 trafficking crime. None of that happens when they charge her.

21 So in the fifth superceding indictment, five  
22 superceding indictments, and you heard co-counsel mention what  
23 that means, all of a sudden they charge her with these other  
24 offenses. And it's all linked, according to their theory, to  
25 this so-called perjury before the Grand Jury.

Hetznecker - Opening

Page 112

1           Let's see if we get her in a lie, charge her with  
2       perjury, and we go from there. And, then, maybe she'll say  
3       something about James Morris she doesn't know. She doesn't  
4       know. And we'll call it a lie. And then, put her in front of  
5       the jury with everyone else and throw her up on a hierarchy of  
6       some sort of imagined drug organization, and there she is.  
7       Lieutenant, major, I don't know what they're claiming she is,  
8       but there she is. But Mr. Bresnick wanted to scream and shout  
9       about the gun found in her pocketbook. A gun that a single  
10      mother has a permit to hold, because she lived in a semi-rural  
11      area with three children, and she's alone at night.

12           Very often, all by herself, for months on end.  
13      Guilty beyond a reasonable doubt. Not guilty. Not guilty.  
14      That's this case. It's frightening to think this is how we  
15      function. That we squeeze individuals who are facing life in  
16      jail to testify and cooperate.

17           That's what they're doing. And then, when they have  
18      someone that they can't squeeze, because she doesn't know, they  
19      charge her with a lie. You look at Mr. Bresnick's questions.  
20      You look very carefully at Mr. Bresnick's questions of Thais  
21      Thompson in the Grand Jury. We don't parse words. She's  
22      charged with perjury. You see whether or not she perjures  
23      herself on a material statement.

24           I submit to you, it's not there. He even said it in  
25      his opening. If you look very carefully, he said to you,

Hetznecker - Opening

Page 113

1 ladies and gentlemen, this morning, do you know whether or not  
2 Mr. Morris had a bank account at a bank? Not a credit union, a  
3 bank.

4 And that's the basis of it. They're going to show  
5 you evidence that he had an account at a credit union. We  
6 don't parse language here. Either it's perjury, or its not.  
7 And if it's not, it's not guilty.

8 Because she wasn't charged with any of the other  
9 charges until the fifth superceding indictment, when they  
10 couldn't squeeze something out of her she didn't have. Now  
11 co-counsel had mentioned this, but I'm going to talk about it a  
12 little bit, and then I'll come back in closing.

13 Because you're not going to hear from me, probably  
14 for weeks.

15 You'll hear from me on the cross-examination of the  
16 agents on the Burden Hill Road, you're going to hear from me.  
17 But for weeks on end, you're going to hear tapes, you're going  
18 to hear evidence that has nothing to do with this young lady,  
19 mother of three children and a nurse.

20 Yeah, she fell in love with James Morris. You decide  
21 the case against James Morris separately. On July 31st, 2005,  
22 there's a phone call to that house from Alton Coles and she  
23 says, he's not here. That's their case. That's their case.  
24 That was their case in August, September, October, November,  
25 December. All the way through, until he subpoenaed her to the



Hetznecker - Opening

Page 114

1 Grand Jury. That was their case. \$560,000, and that's it.  
2 She offers an explanation and they try to disprove it and they  
3 can't.

4 So they don't charge her with perjury initially on  
5 that. They charge her with perjury on something else. The  
6 credit union, the bank that Mr. Bresnick asks her about. The  
7 bank.

8 Look very carefully at the evidence in this case.  
9 Hold them to their burden. The burden on the Government and  
10 the presumption of innocence is two guideposts. I call them  
11 path markers. Markers on this journey. What you're going to  
12 hear is a story from witnesses.

13 The Government has, as people have mentioned, and I'm  
14 going to say it again, all the resources, agents, experts,  
15 fingerprint experts. All the resources available to them in  
16 prosecuting this case against Thais Thompson. You see whether  
17 or not those experts have any clear bearing against the case  
18 against Thais Thompson. What she has is, she has the  
19 presumption of innocence, and you. You, collectively. That's  
20 what she has. That's the protection that's afforded her.

21 Mr. Warren said, look at the resources the Government  
22 has, it's only Coles and Chris Warren. I would modify it.  
23 It's the Government against the presumption of innocence and  
24 you. Because you, collectively, hold my client's future in  
25 your hands.

Hetznecker - Opening

Page 115

1 And that path marker that guides your journey in this  
2 case. That's the path marker. The other one is the burden on  
3 the Government to prove its case beyond a reasonable doubt.  
4 They have to prove each and every element beyond a reasonable  
5 doubt. Perjury, accessory after the fact.

6 924(c), possession of a gun in furtherance of a drug  
7 trafficking crime? A gun purchased in 2000. A gun she admits  
8 to that's in her handbag upstairs? A gun she's not charged  
9 with, until like a year and a half later? Come on.

10 Fire and brimstone? Yeah, I'm angry. Darn right I'm  
11 angry. Because don't equate power with justice. Just because  
12 they have the power to charge someone, they have the power to  
13 subpoena them into the Grand Jury --

14 THE COURT: Mr. Hetznecker, this is an opening  
15 statement.

16 MR. HETZNECKER: Yes, Your Honor. And so was Mr.  
17 Bresnick. But I will confine my remarks. Keep your eyes  
18 firmly fixed on those two guideposts, or path marks.  
19 Presumption of innocence and the burden on the Government to  
20 prove it's case beyond a reasonable doubt.

21 And when you've heard all the evidence in this case,  
22 listened to all the witnesses, I hope that you will come to the  
23 only just and fair conclusion with respect to Thais Thompson.  
24 And that is, she is not guilty of the charges in this case.

25 Thank you for your time and attention.

1 THE COURT: Okay. Ladies and gentlemen it's a little  
2 bit after 4:30. We're going to recess for the day. And I'm  
3 going to ask you to be back tomorrow at 9:15, if you will.

4 Ladies and gentlemen, again, I'm going to give you  
5 these cautionary instructions every time you leave the jury  
6 box. Don't get outside input in this matter. Don't talk to  
7 anybody about the case. Don't let anyone talk to you. Don't  
8 do any independent investigation.

9 Take the matter as it's presented here. We'll see  
10 you tomorrow at 9:15, and we'll begin again promptly. Recess.

11 (End of Requested Portion 4:33:50)

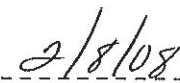
12 (Court adjourned)

13 \* \* \* \* \*

14 C E R T I F I C A T I O N

15 I, Josette Jones, court approved transcriber, certify that the  
16 foregoing is a correct transcript from the official electronic  
17 sound recording of the proceedings in the above-entitled  
18 matter.

19   
20 -----  
21 JOSETTE JONES

  
22 -----  
23 DATE

22 DOMAN TRANSCRIBING AND RECORDING  
23 SERVICES